

This section of the report analyzes selected indicators of impediments to fair housing, such as economic status, race and ethnicity, familial status, and transportation, as indicated by U.S. Census 2000 and HUD data. Data analyses in other relevant and contemporary reports are also incorporated into this analysis. The nexus between indicators of impediments to fair housing are analyzed as well. Key comparisons are made at the state and county level. Numerous tables, in numerical and percentage format, may be found in the Appendix. Due to the importance of recognizing and addressing segregation patterns in Massachusetts, several locations have been selected for further analysis on the basis of race and ethnic concentration. Such locations were selected on the basis of racial and ethnic composition, population size, and location. Additional data on rental assistance housing programs and on discrimination complaints filed with enforcement agencies in Massachusetts are found at the end of this section.

A. Selected Indicators of Impediments to Fair Housing

1) Economic Status and Housing Costs

Economic status and housing cost indicators are relevant variables in an analysis of impediments to fair housing because they vary by protected groups, such as racial and ethnic minorities, discussed later in this report. Housing cost indicators are also relevant to recipients of housing subsidies, who are protected under Massachusetts' fair housing law. For example, recipients of rental vouchers are low income and face a limited market of rental housing that is affordable to them.

Generally, individuals and families of lesser financial means have fewer housing opportunities and choices than their more affluent counterparts, and this inequity affects meaningful housing choice throughout Massachusetts. For example, insufficient access to affordable housing impacts one's ability to own rather than rent a home, to live in a particular area of the Commonwealth and reap the benefits of that area (such as its school systems), to have a home that accommodates the size of one's family, or to live in a home that has been more recently constructed and/or safer to live in. As will be discussed later in this analysis, impeded housing choice also profoundly affects the ability to work and to avoid living in areas of concentrated poverty, and to access educational and recreational opportunities.

A relevant indicator of economic status from the 2000 Census data is "tenure," or whether a householder¹ owns or rents his/her home. The 2000 Census data revealed that 61.7% of occupied housing units were owner occupied in Massachusetts, while

¹ The U.S. Census Bureau defines "householder" as "the person, or one of the people, in whose name the home is owned, being bought, or rented." "Population" is in turn defined by the U.S. Census Bureau as "all people, male and female, child and adult, living in a given geographic area." <http://www.factfinder.census.gov>.

38.3% were renter occupied, as indicated in the table below. (See also Appendix Table 1). In contrast to Massachusetts as a whole and every other county in Massachusetts, in Suffolk County, only 33.9% of occupied housing units were owner occupied and 66.1% were renter occupied.

Occupied Housing Units by Tenure in Massachusetts and All Counties (Percent)

	Massachusetts	Barnstable County	Berkshire County	Bristol County	Dukes County	Essex County	Franklin County	Hampden County
Owner Occupied:	61.7%	77.8%	66.9%	61.6%	71.3%	63.6%	67.0%	61.9%
Renter Occupied:	38.3%	22.2%	33.1%	38.4%	28.7%	36.5%	33.0%	38.1%
Total:	100.00%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
		Hampshire County	Middlesex County	Nantucket County	Norfolk County	Plymouth County	Suffolk County	Worcester County
Owner Occupied:		65.0%	61.8%	63.1%	69.7%	75.6%	33.9%	64.1%
Renter Occupied:		35.1%	38.2%	36.9%	30.3%	24.4%	66.1%	35.9%
Total:		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Author's Calculations using U.S. Census 2000 Summary File 3 (SF 3)—Sample Data

Householders in renter-occupied units in Massachusetts were more likely to have moved to their current housing unit during the 1990s than householders in owner occupied units: 83.1% of householders who moved in to a renter occupied housing unit moved between 1990 and March 2000, while 45.7% of householders in owner occupied housing units moved in during that time period. (See Appendix Table 2). Thus, within said time frame, renter occupied units appear to account for more of the new and turnover occupancy in Massachusetts.

Tenure and poverty levels also impact the age of the housing unit that a householder occupies, and the age of a housing unit may in turn impact health. In 1978, legislation was passed in Massachusetts which forbade further use of lead paint. In Massachusetts, 23.0% of owner occupied housing units were built after 1980, while 77.1% were built in 1979 and earlier. In contrast, among renter-occupied units, only 13.5% were built after 1980, whereas 86.5% were built in 1970 and earlier. Moreover, tenure and poverty status indicators interact with the age of owner occupied housing units, as households in owner occupied units with incomes below the poverty line were more likely to live in older homes than in newer homes. Among owner occupied housing units in 1999, only 6.3% of those with incomes below the poverty level resided in homes built after 1980, and 62.7% resided in homes built in 1950 and earlier. In contrast, 10.8% of those with incomes above the poverty level in 1999 resided in homes built after 1980, and 53.2% resided in homes built in 1950 or earlier. (See Appendix Table 3).

Income level and rental costs are important determinants of housing opportunity in

Massachusetts. The median gross rent² in Massachusetts was \$684, and the median gross rent was highest in Suffolk County at \$791. As such, rentals were not affordable for much of the population. The median income of a renter household was only \$30,682 in Massachusetts and \$30,307 in Suffolk County, while the median income of a homeowner household was \$64,506 in Massachusetts and \$59,836 in Suffolk County. (See Appendix Table 19). Impoverished renters face even more obstacles to affording rent in private housing. In Massachusetts, approximately 9.3% of the total population and 10.9% of householders³ in occupied housing units had income below the poverty level in 1999. Suffolk County had the highest poverty level: approximately 19.0% of the total population and 18.5% of householders in occupied housing units lived below the poverty level. Hampden County also had very high poverty levels, with 14.7% of the total population and 14.0% of householders living below the poverty level. (See Appendix Tables 17 and 18).

Low income households that also receive government subsidies, such as Section 8 vouchers, are particularly vulnerable because they may face discrimination from housing providers based on the source of their income. Of the source of income tests conducted by the Fair Housing Center of Greater Boston from October 2000 to March 2001, 60% revealed that testers with rental subsidies were treated differently and/or given different information than testers without rental subsidies.⁴ In particular, Section 8 holder testers experienced differences in follow-up contact offered and/or received and access to view apartments.

Massachusetts residents who wish to purchase their own home face formidable homeownership costs, particularly in Suffolk County. The median value of a home in Massachusetts was \$185,700, and in Suffolk County it was \$196,800. (See Appendix Table 22). Moreover, 8.6% of homeowners with mortgages in Massachusetts expended 50% or more of their income on monthly housing costs. In Suffolk County, 13.4% of homeowners with mortgages did so. (See Appendix Table 23).

2) Race/Ethnicity and National Origin

Race, ethnicity, and national origin, and their relationship with other factors such as economic status, housing costs, familial status, and transportation accessibility discussed later in this report, have profound effects on fair housing in Massachusetts.

² The U.S. Census Bureau defines "gross rent" as "the amount of the contract rent plus the estimated average monthly cost of utilities (electricity, gas, and water and sewer) and fuels (oil, coal, kerosene, wood, etc.) if these are paid for by the renter (or paid for the renter by someone else)." <http://www.factfinder.census.gov>.

³ See supra note 1.

⁴ *We Don't Want Your Kind Living Here," a Report on Discrimination in the Greater Boston Rental Market.* The Fair Housing Center of Greater Boston. <http://www.bostonfairhousing.org/publications.htm>

In 1999, Whites represented 84.5% of the population in Massachusetts, and non-Hispanic Whites represented 81.9% of the population in Massachusetts; Black or African Americans⁵ represented 5.3% of the population in Massachusetts; and Asians⁶ represented 3.8% of the population in Massachusetts. (See Appendix Table 4). In contrast, according to 1990 U.S. Census Data, in 1989 Whites represented 90.0% of the population in Massachusetts, and non-Hispanic Whites represented 88.0%; Black or African Americans represented 4.9% of the populations; and Asians represented 2.3% of the population. (See Appendix Tables 5 and 7).

Below is a table indicating the racial composition of *householders* in Massachusetts as well as by all counties in Massachusetts according to the U.S. Census 2000 data.

Race of Householders in Massachusetts and All Counties (Percent)

	All Households	White alone	Black or African American alone	American Indian & Alaska Native alone	Householder who is Asian alone	Native Hawaiian & Other Pacific Islander alone	Some other race alone	Two or more races
Barnstable County	100.0%	95.7%	1.2%	0.5%	0.4%	0.0%	0.9%	1.3%
Berkshire County	100.0%	96.9%	1.3%	0.1%	0.6%	0.0%	0.3%	0.8%
Bristol County	100.0%	92.5%	1.8%	0.2%	1.0%	0.0%	2.2%	2.1%
Dukes County	100.0%	91.6%	2.2%	1.7%	0.2%	0.1%	1.3%	2.9%
Essex County	100.0%	89.6%	2.2%	0.2%	1.7%	0.0%	4.6%	1.7%
Franklin County	100.0%	96.8%	0.5%	0.3%	0.7%	0.00%	0.5%	1.2%
Hampden County	100.0%	82.4%	7.4%	0.2%	1.0%	0.0%	7.1%	1.9%
Hampshire County	100.0%	93.7%	1.3%	0.1%	2.2%	0.0%	1.3%	1.4%
Middlesex County	100.0%	88.9%	2.9%	0.2%	4.9%	0.0%	1.4%	1.7%
Nantucket County	100.0%	94.2%	1.8%	0.0%	0.9%	0.0%	1.3%	1.9%
Norfolk County	100.0%	91.3%	2.5%	0.1%	4.4%	0.0%	0.5%	1.0%
Plymouth County	100.0%	91.4%	3.7%	0.2%	0.6%	0.0%	2.1%	2.0%
Suffolk County	100.0%	64.8%	18.9%	0.4%	6.1%	0.0%	5.9%	3.9%
Worcester County	100.0%	91.8%	2.3%	0.2%	2.0%	0.0%	2.2%	1.5%
Massachusetts	100.0%	87.5%	4.7%	0.2%	3.0%	0.0%	2.8%	1.9%

Source: Author's Calculations using U.S. Census 2000 Summary File 3 (SF 3)—Sample Data

⁵ The term "Black or African American" used in this report with respect to U.S. Census data refers to those who identified themselves as "Black or African American alone."

⁶ The term "Asian" used in this report with respect to U.S. Census data refers to those who identified themselves as "Asian alone."

Census 2000 data revealed that certain racial groups were more likely to reside in particular counties in Massachusetts. A plurality of Black or African American householders (46.4%) live in Suffolk County, while the plurality of White householders (23.3%) and Asian householders (37.7%) live in Middlesex County. (See Appendix Table 8). The table above demonstrates racial composition among Massachusetts counties.

The U.S. Census Bureau does not characterize the category of “Hispanic or Latino” as a race, but rather as an ethnicity. In Massachusetts, 6.7% (n= 427,340) of the total population was classified as Hispanic or Latino.⁷ (See Appendix Tables 5 and 11 for further statistics regarding the racial composition of Hispanics and Non-Hispanics). In contrast, in 1989 only 4.6% of the total population was classified as Latino. (See Appendix Table 6 for further statistics regarding the racial composition of Hispanics and Non-Hispanics).

Compared to other racial/ethnic groups, the percentage of Hispanics or Latinos in Massachusetts has increased the most. With respect to householders, 4.9% of householders were classified as Hispanic or Latino. A plurality of Hispanics or Latinos lived in Suffolk County (26.5%), followed by Essex County (18.4%) and Hampden County (16.8%). (See Appendix Table 10). The table below identifies the presence of Hispanic or Latino householders among Massachusetts counties.

⁷ The U.S. Census Bureau states in its Glossary for census data that “there are two minimum categories for ethnicity: *Hispanic or Latino* and *Not Hispanic or Latino*. The federal government considers race and Hispanic origin to be two separate and distinct concepts. Hispanics and Latinos may be of any race.” Hispanic or Latino origin is self-identified and includes origin from Latin America and Spain. Some of the U.S. Census 2000 tables provide data on Hispanic or Latino ethnicity by race (for example, “White alone, Hispanic or Black or African American alone, Hispanic).

**Hispanic or Latino Householders in
 Massachusetts and All Counties (Percent)**

	All Households	Hispanic or Latino	Non- Hispanic or Latino	White alone (not Hispanic or Latino)
Barnstable County	100.0%	0.8%	99.2%	95.2%
Berkshire County	100.0%	1.0%	99.1%	96.3%
Bristol County	100.0%	2.5%	97.5%	91.4%
Dukes County	100.0%	0.5%	99.5%	91.3%
Essex County	100.0%	8.0%	92.0%	87.3%
Franklin County	100.0%	1.3%	98.7%	96.1%
Hampden County	100.0%	11.5%	88.5%	79.0%
Hampshire County	100.0%	2.4%	97.6%	92.6%
Middlesex County	100.0%	3.2%	96.8%	87.1%
Nantucket County	100.0%	0.5%	99.5%	93.9%
Norfolk County	100.0%	1.3%	98.7%	90.5%
Plymouth County	100.0%	1.7%	98.3%	90.6%
Suffolk County	100.0%	11.2%	88.8%	60.6%
Worcester County	100.0%	5.1%	94.9%	89.5%
Massachusetts	100.0%	4.9%	95.1%	85.5%

Source: Author's Calculations using U.S. Census 2000 Summary File 3 (SF 3)—Sample Data

Hispanics or Latinos, as well as Asians and Pacific Islanders, have the highest rates of linguistic isolation. Between 2000 and 2004, 47.3% of Massachusetts immigrants were from Latin America and the Caribbean and 23.1% were from Asia.⁸ In Massachusetts,

⁸ The Massachusetts Institute for a New Commonwealth and the Center for Labor Market Studies. *The Changing Face of Massachusetts*. June 2005.

33.7% of those who speak Asian and Pacific Island languages were linguistically isolated, and in Suffolk County this percentage increases to 47.1%. Spanish speaking individuals were the second most likely to be linguistically isolated. In Massachusetts, 24.8% of Spanish speaking individuals were linguistically isolated, and in Suffolk County 30.8% were linguistically isolated. (See Appendix Table 8).

Hispanics or Latinos and Asians are also notable because of their high mobility rates in comparison to other racial/ethnic groups. Hispanics or Latinos and Asians were the racial/ethnic group most likely to move into a unit between 1999 and March 2000. While 31.3% of Hispanics or Latinos and 31.3% of Asians moved in during that time period, 21.4 % of Black or African Americans and only 14.5% of Whites did so. Hispanics or Latinos (41.6%) were also more likely than Whites (26.4%), Black or African Americans (35.8%) and Asians (38.0%) to have moved into a unit between 1995 and 1998. (See Appendix Table 12). In addition to being the racial/ethnic group to move most recently into a housing unit, Hispanics or Latinos were much more likely to have resided in a different house in 1995⁹ than Whites. In Massachusetts, 38.1% of Whites resided in a different house in 1995, compared to 50.1% of Black or African Americans, and 61.1% of Asians and 62.7% of Hispanics or Latinos. (See Appendix Table 13).

Due to the lower rate of housing permanence among minorities, housing discrimination monitoring and enforcement is of particular importance as minorities enter and/or re-enter the housing market. See discussion herein, *infra* section F, for housing discrimination complaint data on the basis of race and ethnicity.

Testing results also reveal the persistence of discrimination on the basis of race and national origin. HUD's 2000 Housing Discrimination Study, "Discrimination in Metropolitan Housing Markets," revealed that White renters were favored over African American renters in 21.6% of rental tests and over Hispanic renters in 25.7% of rental tests.¹⁰ HUD's 2000 study also revealed that White homebuyers were favored over African American homebuyers in 17.0% of tests and over Hispanic homebuyers in 19.7% of tests.¹¹ It also concluded that Asians and Pacific Islanders faced consistent adverse treatment 21.5% of the time as renters.¹²

⁹ The U.S. Census Bureau defines residence 5 years ago as "the area of residence five years prior to the reference date for those who reported that they lived in a different housing unit."

¹⁰ *Discrimination in Metropolitan Housing Markets, Phase 1: African Americans and Hispanics*. The Housing Discrimination Study 2000. The Urban Institute Metropolitan Housing and Communities Policy Center, submitted to the U.S. Department of Housing and Urban Development. November 2002.

¹¹ *Id.*

¹² *Discrimination in Metropolitan Housing Markets, Phase 2: Asians and Pacific Islanders*. The Housing Discrimination Study 2000. The Urban Institute Metropolitan Housing and Communities Policy Center, submitted to the U.S. Department of Housing and Urban Development. March 2003.

According to the Fair Housing Center of Greater Boston, discrimination in rental and sales markets are pronounced in the Boston area. The Fair Housing Center of Greater Boston testing results revealed that at least half of African Americans, Section 8 subsidy holders, and families with children were discriminated against in their efforts to find rental housing in the greater Boston area,¹³ as were 52% of Latinos.¹⁴ Most recently, the Fair Housing Center of Greater Boston concluded that homebuyers of color were disadvantaged in 17 of the 36 paired sales tests.¹⁵

Selected Location Statistics:

Aside from Boston, racial and ethnic minorities are highly concentrated within cities contained in several of the counties discussed above. While Black or African Americans constitute 5.3% of the Massachusetts population, they comprise 29.4% of the city of Boston, 20.7% of the city of Springfield, 11.9% of the city of Cambridge, and 7.1% of the city of Worcester. Black or African Americans (43.6%) are also most likely to live in Boston.

Hispanics or Latinos are not as concentrated in a particular city as Black or African Americans; however, they are over-represented in certain cities in comparison to their representation in the total population. Hispanics or Latinos constitute 6.7% of the total population in Massachusetts, in comparison to 59.8% of the city of Lawrence, 41.0% of the city of Holyoke, 27.2% of the city of Springfield, 15.3% of the city of Worcester, 14.5% of the City of Boston, and 10.1% of the city of New Bedford. Asians constitute 3.8% of the Massachusetts population, and comprise 16.3% of Lowell, 12.0% of Cambridge, and 7.5% of Boston. Whites (non-Hispanic) are also over-represented in a variety of locations in Massachusetts that are geographically located near cities over-represented by minorities. For example, Whites (non-Hispanic) constitute 81.9% of the population in Massachusetts, 92.1% of Westfield (near Holyoke and Springfield), 85.2% of Fitchburg-Leominster PMSA (near Worcester), 86.5% of Haverhill (near Lawrence), and 86.5% of Newton (near Boston). (See Appendix Table 33).

Black or African Americans comprise 4.7% of Massachusetts householders, and 21.4% of Boston, 19.9% of Springfield, 10.2% of Cambridge, and 6.4% of Worcester householders. Hispanics or Latinos comprise 4.9% of total Massachusetts householders, and 50.7% of Lawrence, 32.2% of Holyoke, 21.9% of Springfield, and 10.6% of Boston

¹³ See supra note 4.

¹⁴ *Access Denied: Discrimination Against Latinos in the Greater Boston Rental Market*. The Fair Housing Center of Greater Boston. <http://www.bostonfairhousing.org/publications.htm>.

¹⁵ *You Don't Know What You're Missing: Realtors Disadvantage African American and Latino Homebuyers*. The Fair Housing Center of Greater Boston. October 2005. <http://www.bostonfairhousing.org/publications.htm>.

householders. (See Appendix 34). Asians comprise 3.0% of total Massachusetts householders, and 9.1% of Cambridge and 6.6% of Boston householders. A large percent of Black or African Americans (45.2%), Hispanics or Latinos (21.1%), and Asians (21.9%), have households in Boston. In contrast, while Whites (not Hispanics) comprise 85.5% of total Massachusetts householders, they were largely under-represented in Boston (58.0%) and other cities with higher minority populations.

3) Familial Status

In Massachusetts, families¹⁶ represented 64.9% of all households, and families with children¹⁷ represented 31.2% of all households. (See Appendix Table 26). In Suffolk County, families represented only 50.5 % of all households, and families with children represented 24.1% of all households. Among White (not Hispanic) households in Massachusetts, families represented 64.0% of households, and families with children represented 30.7% of households. These percentages increased among Black or African American households to 66.6% and 41.4% respectively, among Asian households to 71.0% and 41.6% respectively; and among Hispanic or Latino households to 75.0% and 56.5% respectively. (See Appendix Table 26).

With respect to family household size in Massachusetts, 60.3% of family households contained three or more persons, and 60.9% of renter occupied units contained two or more bedrooms. (See also Appendix Table 28). However, there was an inverse relationship between family size and housing opportunities, as larger families in need of larger units had less housing choice. For example, only 22.7% of renter occupied units contained 3 bedrooms or more. A further discussion of the variation of housing size by tenure is contained later in this analysis.

¹⁶ The U.S. Census Bureau defines “family” as “a group of two or more people who reside together and who are related by birth, marriage, or adoption.” <http://www.factfinder.census.gov>.

¹⁷ Family households with the presence of (own) children under 18 years.

Household Size in Family Households in Massachusetts and All Counties (Percent)

	Massachusetts	Barnstable County	Berkshire County	Bristol County	Dukes County	Essex County	Franklin County	Hampden County
Family households:								
2-person household	39.7%	52.8%	48.3%	39.0%	45.1	38.3%	44.1%	39.7%
3-person household	23.7%	20.1%	22.7%	25.0%	23.1	23.7	24.4%	24.2%
4-person household	21.8%	16.5%	18.8%	22.6%	20.4	22.5	20.0%	20.9%
5-person household	9.9%	7.6%	7.1%	9.3%	8.5	10.4	8.2%	9.8%
6-person household	3.4%	2.3%	2.1%	3.2%	2.4%	3.6	2.5%	3.6%
7-or-more-person household	1.5%	0.8%	1.0%	1.1%	0.6%	1.6%	0.8%	1.8%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.00%	100.0%	100.0%
Family households:		Hampshire County	Middlesex County	Nantucket County	Norfolk County	Plymouth County	Suffolk County	Worcester County
2-person household		43.5%	39.4%	44.0%	39.2%	36.0%	38.6%	39.1%
3-person household		24.1%	23.8%	24.1%	23.2%	23.3%	24.2%	23.8%
4-person household		21.5%	22.5%	19.3%	22.8%	23.6%	18.7%	22.7%
5-person household		7.8%	9.7%	8.0%	10.4%	11.5%	10.7%	9.9%
6-person household		2.2%	3.2%	2.7%	3.4%	3.8%	4.5%	3.3%
7-or-more-person household		0.9%	1.4%	1.5%	1.1%	1.9%	3.3%	1.3%
Total		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Author's Calculations using U.S. Census 2000 Summary File 3 (SF 3)—Sample Data

Families with children are vulnerable to housing discrimination because some housing providers unlawfully limit the number of allowable persons per bedroom or per unit, as discussed in the Legal Framework section of this report. Families may face such illegal action when they attempt to secure a housing unit, or even earlier when they attempt to inquire about the unit or read about the limitation in an unlawful advertisement. See discussion herein, *infra* section F, for further information on familial status complaints filed in Massachusetts.

4) Disability

In Massachusetts, according to 2000 U.S. Census Bureau data, there were 1,084,746 non-institutionalized civilian disabled¹⁸ individuals five years and over. Disabled individuals that rent, particularly units that are not subsidized or part of public housing, face obstacles to handicap accessibility, regardless of poverty level. Only approximately 4.4% (n=8,460) of units occupied by renters below the poverty level, and 4.4% (n=32,647) of units occupied units by renters above the poverty level, were built after 1990. (See Appendix Table 2). Handicap accessibility compliance for new housing construction was required beginning in 1991. However, individuals with greater economic means are more likely to be able to make modifications to their rental units at their own expense, as required in some private housing under applicable fair housing laws. (See the Legal Framework section of this report for further discussion).

In Massachusetts, according to U.S. Census Bureau data, 4.9% of individuals received Supplemental Security Income (SSI) in Massachusetts in 1999.¹⁹ In order to be eligible for SSI, a person must be aged 65 or older, blind, or disabled, and have limited income, limited resources, and meet immigration and residence requirements.²⁰ As a “needs based” benefit, SSI is for low income persons whose allowable resources for eligibility are limited at \$2,000 per individual.²¹ In 2000, the eligible monthly payment for an individual was \$513.00, and in 2007 it is \$623.00.²²

Extremely low incomes were most evident in the universe of renter occupied units. According to rental data,²³ 42.6% of non-elderly and 54.3% of elderly (ages 62 to 74) households with mobility and/or self-care limitations in renter occupied units had

¹⁸ The U.S. Census Bureau defines disability as “A long-lasting physical, mental, or emotional condition. This condition can make it difficult for a person to do activities such as walking, climbing stairs, dressing, bathing, learning, or remembering. This condition can also impede a person from being able to go outside the home alone or to work at a job or business.”

¹⁹ Author’s calculations using U.S. Census Bureau, 2000 Census Summary File 3 (SF 3)--Sample Data.

²⁰ Social Security Administration. Understanding Supplemental Security Income SSI Eligibility Requirements, 2006 Edition. <http://www.ssa.gov/notices/supplemental-security-income/text-eligibility-ussi.htm> .

²¹ Id.

²² Social Security Administration SSI federal payment amounts (updated October 14, 2005). <http://www.ssa.gov/OACT/COLA/SSIAMts.html> .

²³ HUD CHAS data uses Census 2000 data to comprise housing need variables split by HUD defined income limits (30, 50, and 80 % of median income) and HUD specified household types. See <http://www.huduser.org/datasets/cp.html> .

incomes less than or equal to 30% of the HUD area median family income (AMI). (See Appendix Table 41).

Due to the shortage of affordable and accessible housing, disabled individuals are vulnerable to housing discrimination by housing providers who may not wish to accommodate their needs. HUD's annual Report on Fair Housing in 2005 revealed that 49% of discrimination complaints filed with HUD contained allegations of discrimination based of disability, which was greater than the percentage of complaints filed on the basis of Race (41%), National Origin (9%), Familial status (12%), gender (10%), and religion (2%).²⁴ See discussion herein, *infra* section F, for further information on disability complaints filed in Massachusetts.

5) Sexual Orientation

An analysis of impediments to fair housing on the basis of sexual orientation is difficult to assess, in large part because there is a paucity of reliable data on residents' sexual orientation. It is important to monitor the impact the 2003 *Goodridge v. Mass. Department of Public Health*²⁵ decision, finding the denial of same-sex marriage unconstitutional. This landmark decision of the Supreme Judicial Court effectively ended marriage discrimination in Massachusetts and declared same-sex couples equal under the law. It has been more than two years since the decision was issued, and there is no tangible adverse impact of this decision. Indeed, increased awareness of this important civil rights issue has resulted in increased support for the rights of same-sex couples, which may lessen the occurrence of discrimination. However, because the decision was controversial, heightened awareness of the issue may potentially give rise to additional discriminatory housing practices on the basis of sexual orientation, which are illegal and cannot be tolerated.

In 2004, the percentage of complaints filed with the Massachusetts Commission Against Discrimination on the basis of sexual orientation was 2.6%.²⁶ In 2005, this percentage dropped to 1.4%,²⁷ although the incidence of discriminatory practices on the basis of sexual orientation is likely much greater. See discussion herein, *infra* section F, for further discussion of housing discrimination complaints filed in Massachusetts.

6) Access to Transportation

²⁴ *State of Fair Housing: FY 2005 Annual Report on Fair Housing*. U.S. Department of Housing and Urban Development, the Office of Fair Housing and Equal Opportunity.

²⁵ 798 N.E.2d 941 (Mass. 2003).

²⁶ Author's calculations using data provided by the Massachusetts Commission Against Discrimination, provided July 25, 2006. Complaints may have been filed under more than one discriminatory basis.

²⁷ *Id.*

Transportation costs and access to public transportation affect housing affordability and choice directly, as well as indirectly based upon housing proximity to employment. As discussed later in this report, variations in transportation access by race/ ethnicity have important fair housing implications.

Transportation costs often affect housing affordability, and vice versa in Massachusetts and beyond. The relationship between transportation costs and housing affordability appears to be a national phenomenon. Geographical areas that have lower housing costs also often have higher transportation costs because of their distance from public transit. The Joint Center for Housing Studies at Harvard, using the federal government's Consumer Expenditure Survey of 2003, found that families in the bottom income quartile who spent more than 50% of their budget on housing spent 11.8% of their budget on transportation, whereas those who spent up to 30% of their budget on housing spent 18.4% on transportation.²⁸

²⁸ *The State of the Nation's Housing*. Joint Center for Housing Studies (2005).

Means of Transportation and Private Vehicle Occupancy for Workers 16 Years and Over in Massachusetts and All Counties (Percent)

	Massachusetts	Barnstable County	Berkshire County	Bristol County	Dukes County	Essex County	Franklin County	Hampden County
Car, truck, or van:								
Drove alone	73.8%	81.3%	79.2%	81.7%	72.2%	78.8%	79.3%	81.43%
Carpooled	9.0%	8.1%	9.7%	10.7%	8.3%	9.4%	10.1%	10.34%
Total:	82.8%	89.5%	88.9%	92.4%	80.5%	88.2%	89.3%	91.76%
Public Transportation:								
Bus or trolley bus	2.9%	1.1%	1.0%	0.8%	0.7%	1.4%	0.8%	2.24%
Streetcar or trolley car	0.4%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.05%
Subway or elevated	3.7%	0.1%	0.1%	0.2%	0.0%	0.9%	0.1%	0.02%
Railroad	1.5%	0.1%	0.1%	1.3%	0.0%	2.1%	0.1%	0.01%
Ferryboat	0.1%	0.1%	0.0%	0.0%	0.4%	0.0%	0.0%	0.00%
Taxicab	0.2%	0.1%	0.2%	0.2%	0.4%	0.3%	0.3%	0.15%
Total	8.7%	1.5%	1.5%	2.6%	1.5%	4.9%	1.2%	2.46%
Other:								
Motorcycle	0.1%	0.0%	0.1%	0.1%	0.1%	0.0%	0.1%	0.0%
Bicycle	0.4%	0.3%	0.3%	0.2%	1.3%	0.2%	0.4%	0.2%
Walked	4.3%	2.6%	5.3%	2.2%	5.2%	2.8%	3.4%	3.0%
Other means:	0.5%	0.9%	0.4%	0.6%	1.5%	0.7%	0.4%	0.5%
Worked at home	3.1%	5.2%	3.6%	2.1%	10.0%	3.3%	5.1%	2.1%
Grand Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
		Hampshire County	Middlesex County	Nantucket County	Norfolk County	Plymouth County	Suffolk County	Worcester County
Car, truck, or van:								
Drove alone		74.1%	72.1%	65.3%	72.9%	80.9%	43.9%	82.6%
Carpooled		7.8%	8.2%	15.6%	7.4%	9.1%	9.8%	9.3%
Total:		81.9%	80.3%	80.9%	80.3%	89.9%	53.5%	91.0%
Public Transportation:								
Bus or trolley bus		2.4%	3.3%	0.2%	1.4%	1.2%	11.5%	1.0%
Streetcar or trolley car		0.0%	0.3%	0.0%	0.9%	0.0%	2.1%	0.0%
Subway or elevated		0.1%	4.9%	0.0%	5.7%	1.0%	15.9%	0.0%
Railroad		0.0%	1.6%	0.0%	4.0%	2.3%	1.0%	0.4%
Ferryboat		0.0%	0.0%	0.0%	0.2%	0.9%	0.1%	0.0%
Taxicab		0.1%	0.3%	0.0%	0.1%	0.1%	0.4%	0.2%
Total		2.5%	10.3%	0.2%	12.4%	5.4%	31.0%	1.8%
Other:								
Motorcycle		0.1%	0.1%	0.2%	0.1%	0.1%	1.0%	0.1%
Bicycle		0.8%	0.7%	1.8%	0.3%	0.1%	0.9%	0.1%
Walked		10.1%	4.6%	9.7%	3.0%	1.4%	11.8%	3.0%
Other means:		0.4%	0.5%	0.9%	0.4%	0.5%	0.6%	0.6%
Worked at home		4.1%	3.6%	6.5%	3.6%	2.6%	2.3%	2.7%
Grand Total:		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Author's Calculations using U.S. Census 2000 Summary File 3 (SF 3)—Sample Data

Vehicle Availability in Massachusetts and All Counties (Percent)

	Massachusetts	Barnstable County	Berkshire County	Bristol County	Dukes County	Essex County	Franklin County	Hampden County
No Vehicle Available:								
Vehicles Available:	12.7%	5.0%	11.0%	11.7%	3.7%	11.1%	7.8%	14.7%
1 vehicle available	87.3%	95.0%	89.0%	88.3%	96.3%	88.9%	92.3%	85.4%
2 vehicles available	37.0%	38.5%	39.8%	35.9%	36.0%	36.0%	36.6%	38.1%
3 vehicles available	37.7%	43.6%	37.3%	38.5%	43.7%	39.8%	41.2%	35.6%
4 vehicles available	9.4%	10.0%	9.2%	10.3%	10.9%	9.9%	10.9%	9.0%
5 or more vehicles available	2.4%	2.3%	1.9%	2.6%	4.0%	2.4%	2.9%	2.0%
Total	0.8%	0.71%	0.87%	0.90%	1.67%	0.83%	0.65%	0.61%
	100.0%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
		Hampshire County	Middlesex County	Nantucket County	Norfolk County	Plymouth County	Suffolk County	Worcester County
No Vehicle Available:								
Vehicles Available:		7.3%	10.5%	5.2%	8.9%	7.0%	33.2%	9.8%
1 vehicle available		92.7%	89.5%	94.8%	91.2%	93.0%	66.8%	90.2%
2 vehicles available		37.0%	36.4%	35.4%	35.7%	30.7%	44.7%	35.5%
3 vehicles available		41.3%	39.7%	38.4%	42.0%	45.1%	17.7%	40.9%
4 vehicles available		10.2%	9.9%	15.4%	10.2%	12.4%	3.2%	10.3%
5 or more vehicles available		3.3%	2.5%	3.8%	2.6%	3.7%	0.7%	2.7%
Total		0.9%	0.9%	1.7%	0.8%	1.1%	0.5%	0.9%
		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Author's Calculations using U.S. Census 2000 Summary File 3 (SF 3)—Sample Data

Vehicle availability substantially impacts the feasibility of commuting to work for many individuals. Only 3.4% of time spent traveling to work under thirty minutes was attributable to public transportation in Massachusetts, and as that percentage increased travel time increased. Percentages were even lower for all counties in Massachusetts, except for Suffolk County. (See Appendix Table 16). Outside the Boston area, contained in Suffolk County, public transportation is less feasible for a high proportion of the working population. Other means of transportation besides public transportation was relied upon by as high as 93.2% of workers in Worcester County, 97.5% in Hampshire County and 97.8% in Essex County. (See Appendix Table 16).

Transportation feasibility affects housing choice indirectly by determining employment location. In Massachusetts, 8.7% of workers over the age of 16 relied on public transportation to commute to work and 12.73% did not have a vehicle available; in Suffolk County, 31.0% relied on public transportation and 33.2% did not have a vehicle available, as indicated in the tables below. (See also Appendix Tables 14, 15, 16, and 29). For workers who do not have access to public transportation or other forms of feasible transportation (in terms of money and time), employment choice and affordable housing located near such employment, may be limited.

Thus, workers who must rely on public transportation are forced to choose between the location they want or can afford to live in, and the location in which they are able to work or feasibly able to commute to work. In Massachusetts, 30.1% of workers over the age of 16 worked outside their county of residence. Norfolk County (51.4%) and Plymouth County (47.0%) had the greatest share of workers working outside their county of residence. In Suffolk County, 31.7% worked outside their county of residence. In contrast, Hampden County, which has limited rail transit, only 8.0% of workers over the age of 16 worked outside their county of residence. (See Appendix Table 17).

B. Relationships between Selected Indicators of Impediments to Fair Housing

In this section of the report, the nexus between indicators of impediments to fair housing will be discussed. A particular emphasis will be placed on race and ethnicity due to their substantial relationship with numerous other determinants of housing choice such as income, housing costs, homeownership opportunity, and transportation access, and due to the amount of contemporary literature dedicated to the subject. Race and ethnicity are strong indicators of housing opportunity and choice in Massachusetts primarily because they: 1) bear strong relationships with socio-economic forces, such as poverty, that correlate with geographical residential patterns; and 2) are strongly impacted by structural forces such as institutional lending practices and discriminatory actions by real estate agents that shape and constrict their home seeking experience.

1) Race/Ethnicity and Concentrations of Poverty

There is a substantial relationship between race and ethnicity and residential poverty levels throughout all counties in Massachusetts. In Massachusetts, 6.4% of Whites (not Hispanic) had income below the poverty level in 1999, contrasted with 16.2% of Asians, 21.2% of Black or African Americans, and 29.8% of Hispanics or Latinos. (See Appendix Table 18). Poverty levels were highest in counties over-represented by Black or African Americans and Hispanics or Latinos in comparison to the representation of these groups in the total population. Minorities were more likely to have income below the poverty level in 1999 in Suffolk County. Although the greatest share, or concentration at the county level, of Whites (not Hispanic) (13.1%), Black or African Americans (49.0%), Latinos or Hispanics (25.2%), and Asians (37.8%) with income below the poverty level in 1999 occurred in Suffolk County, it was substantially lower among Whites (not Hispanic). (See Appendix Table 18).

Poverty Status by Race/Ethnicity in 1999 in Massachusetts and All Counties

Income in 1999 below poverty level:	Massachusetts	Barnstable County	Berkshire County	Bristol County	Dukes County	Essex County	Franklin County	Hampden County
White alone (not Hispanic):	100.0%	3.9%	3.2%	11.5%	0.3%	10.7%	1.8%	7.9%
Hispanic or Latino:	100.0%	0.4%	0.5%	5.7%	0.0%	17.7%	0.2%	23.5%
Black or African American alone:	100.0%	1.0%	0.9%	4.5%	0.0%	5.3%	0.1%	14.1%
American Indian and Alaska Native:	100.0%	6.2%	1.1%	9.5%	0.5%	13.4%	0.9%	8.4%
Native Hawaiian and Other Pacific Islander:	100.0%	0.0%	0.0%	7.1%	0.0%	23.5%	2.0%	13.2%
Asian alone:	100.0%	0.4%	0.6%	3.7%	0.1%	5.9%	0.3%	2.8%
Some other race alone:	100.0%	0.5%	0.2%	6.7%	0.0%	18.3%	0.3%	26.6%
Two or more races alone:	100.0%	2.4%	1.5%	9.4%	0.1%	13.5%	0.9%	9.2%
Income in 1999 below poverty level:		Hampshire County	Middlesex County	Nantucket County	Norfolk County	Plymouth County	Suffolk County	Worcester County
White alone (not Hispanic):		3.2%	18.3%	0.1%	6.8%	6.2%	13.1%	13.0%
Hispanic or Latino:		0.8%	10.3%	0.0%	0.9%	2.0%	25.2%	12.9%
Black or African American alone:		0.7%	9.2%	0.3%	2.2%	6.3%	49.0%	6.4%
American Indian and Alaska Native:		1.9%	8.6%	0.0%	4.5%	4.2%	32.7%	8.2%
Native Hawaiian and Other Pacific Islander:		2.8%	27.6%	0.0%	3.0%	4.3%	13.4%	3.0%
Asian alone:		1.5%	27.1%	0.1%	10.0%	1.4%	37.8%	8.4%
Some other race alone:		0.8%	9.0%	0.1%	0.6%	4.1%	23.0%	10.0%
Two or more races alone:		1.1%	16.5%	0.1%	3.3%	6.5%	24.6%	11.1%

Source: Author's Calculations using U.S. Census 2000 Summary File 3 (SF 3)—Sample Data

With respect to the concentration of poverty on the neighborhood level in Massachusetts, DHCD's analysis of the Federal Financial Institutions Examination Council Data revealed that among minorities, over 60% live in low income census tracts and 24% live in very low income census tracts, compared to less than 18% and 2.5% of non-minority residents respectively.²⁹

Within the metropolitan Boston area, the link between residentially concentrated poverty and race/ethnicity was even more evident. Poor racial and ethnic minorities are far more likely to reside in poverty neighborhoods/census tracts (tracts in which 20% or

²⁹ *Massachusetts 2005-2009 Consolidated Plan*. Department of Housing and Community Development. April 1, 2005 (revised).

more of the population is in poverty) than poor Whites: while 64.1% of poor Black or African Americans, 68.5% of poor Hispanics or Latinos, and 50.3% of poor Asians live in poverty census tracts, only 28.3% of poor Whites live in poverty census tracts.³⁰

Minorities are also more likely than Whites in Metro Boston to live in “severely distressed” neighborhoods, or neighborhoods characterized as having at least three of the following characteristics: female headed families with children, high shares of high school dropouts, high shares of people in poverty, and high shares of males detached from the labor force.”³¹ While only 15.9% of Whites lived in severely distressed neighborhoods, 47.7% of Blacks, 51.7% of Hispanics, and 22.2% of Asians lived in severely distressed neighborhoods.³² However, lower minority incomes do not offer a complete explanation for racial segregation patterns, as African American and Latino households with incomes over \$50,000 were twice as likely to live in high-poverty neighborhoods than White households with incomes under \$20,000.³³

Higher incidences of concentrated poverty among Black or African American and Hispanic or Latino populations are not confined to the Metropolitan Boston area. For example, in Hampden County, which contains large minority populations in the cities of Holyoke and Springfield, 46.7% of Black or African Americans and 54.3% of Hispanics or Latinos lived in census tracts where greater than 20% of the population had incomes in 1999 below the poverty level. In contrast, only 22.8% of Asians and 14.1% of Whites (not Hispanic) lived in such tracts.³⁴

Selected Location Statistics:

The share of Black or African American and Hispanic or Latino householders with income in 1999 below the poverty level was generally high in selected cities over-represented by these groups, such as Holyoke, Springfield, Worcester, Lawrence, Lowell, Boston, and New Bedford. Among Hispanics or Latinos in particular, poverty rates in said cities were higher than in other comparable selected locations not so over-represented by minorities. The share of Hispanics or Latinos with incomes below the

³⁰ McArdle, Nancy. *Beyond Poverty: Race and Concentrated-Poverty Neighborhoods in Metro Boston*. The Civil Rights Project, Harvard University. December 2003. (Boston Metro Area was defined as the Massachusetts portion of the Boston-Worcester-Lawrence-Lowell-Brockton, MA-NH New England County Metropolitan Area, including Bristol, Essex, Middlesex, Norfolk, Plymouth, Suffolk, and Worcester counties).

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ Author’s calculations using U.S. Census Bureau, 2000 Census Summary File 3 (SF 3)--Sample Data.

poverty level was particularly high in Holyoke (47.3%), Springfield (43.9%), Lowell (36.4%), and New Bedford (47.2%) and not as high in locations such as Westfield (26.1%), Haverhill (24.4%), Framingham (20.4%), and Newton (11.7%). Such a pattern between selected locations was not as marked or consistent among African Americans. However, it should be noted that like Hispanics or Latinos, the *number* of Black or African Americans living below the poverty level was substantially greater in selected locations over-represented by minorities. The highest percentage of Asians and Whites (not Hispanic) with income below the poverty level in 1999 among the selected locations was in New Bedford (32.8% and 14.6% respectively). (See Appendix Table 35).

2) Race/Ethnicity, Income Levels, Rental Costs, and Residential Patterns

In addition to racial and ethnic disparities at the very lowest income levels, overall variations in income by race and ethnicity are relevant to this analysis because of their magnitude, and because they implore the creation of more opportunities for upward mobility through affordable and inclusionary housing outside of low income areas. Census data reveals that median household incomes vary significantly by race and ethnicity in Massachusetts and all counties with the exception of Franklin County. The median household income of Whites (not Hispanics) in 1999 was \$53,031 in Massachusetts, \$46,278 in Suffolk County, and at its lowest at \$39,538 in Berkshire County. The median household income of Black or African Americans in 1999 was \$33,727 (63.6% of Whites) in Massachusetts, \$30,479 in Suffolk County, and at its lowest at \$27,763 in Hampden County. The median household income of Hispanics or Latinos in 1999 was \$27,300 (51.5% of Whites) in Massachusetts, \$27,936 in Suffolk County, and at its lowest at \$18,491 in Hampden County. The median household income of Asians in 1999 was \$51,273 (96.7% of Whites) in Massachusetts, and at its lowest at \$28,208 in Suffolk County. (See Appendix Table 19).

Low minority median incomes are largely accounted for by households with extremely low incomes (less than or equal to 30% of the household area median family income). However, minorities were also over-represented in the HUD defined low income range (between 50.1% and 80% of the household area median family income). (See Appendix Table 42).

Additionally, Black or African American and Hispanic or Latino households were more likely than White households to have housing problems, including lack of plumbing facilities, lack of complete kitchen facilities, containing 1.01 or more persons per room, or with cost burdens of more than 30%. This occurred regardless of income level, although differences were often small. (See Appendix Table 42). Housing problem disparities by race and ethnicity were most pronounced among homeowners in households with incomes between 50% and 95% of the AMI than households with

incomes below 50% of the AMI. For further information on housing problems by region and entitlement,³⁵ see Appendix B.

Although Whites had higher median household incomes in 1999 than Black or African Americans and Hispanics or Latinos, median gross rents did not vary as substantially among these groups. The median gross rent in Massachusetts in 1999 was \$650.00 for Whites (not Hispanic), \$650.00 for Black or African Americans, and \$590.00 for Hispanics or Latinos. At the county level, Hispanics or Latinos tended to have lower median gross rents than Whites (not Hispanic) and Black or African Americans. However, in Franklin, Norfolk, and Nantucket Counties, Hispanics or Latinos had higher median gross rents than Whites (not Hispanic), as did Black or African Americans in Norfolk and Worcester Counties. Rental cost burdens disparities did not vary substantially by race and ethnicity, although the disparity widened in several counties such as Bristol, Hampden, and Worcester counties. (See Appendix 20).

Segregated residential patterns and disproportionate housing costs based on race and ethnicity may be explained in part by discriminatory practices of private housing providers. Among the housing discrimination allegations in cases filed with the Massachusetts Commission Against Discrimination in 2006, 19.6% were attributed to discriminatory “refusals to rent or sublet,” 11.7% were for discriminatory “evictions or threatened evictions,” and 36.9% were attributed to discrimination in “other terms, conditions, or privileges.”³⁶

Testing results have also revealed discriminatory rental practices in Massachusetts. For example, 52% of the national origin phone tests (n= 50) conducted by the Fair Housing Center of Greater Boston between February and April of 2002 revealed discrimination against Latinos.³⁷ A plurality of the discrimination (44%) was due to unequal access to rental agents and/or access to view apartments. Furthermore, Latino testers were less likely to receive follow-up calls than White testers, and were more likely to be subjected to different terms and conditions, including higher rent, with respect to the application process and the rental.

Between October 2000 and March 2001, the Fair Housing Center of Greater Boston found that although African American testers were not denied housing outright,

³⁵ As defined by the HUD Community Development Block Program, eligible entitlement communities are principal cities of Metropolitan Statistical Areas (MSAs); other metropolitan cities with populations of at least 50,000; and qualified urban counties with populations of at least 200,000 (excluding the population of entitled cities) are entitled to receive annual grants.

³⁶ See *infra* note 189.

³⁷ See *supra* note 14.

evidence of discrimination occurred in 55% of the race based tests (n=31).³⁸ A plurality of the discrimination (43%) was attributable to different information regarding the present and future availability of apartments than White testers. Other forms of discrimination that African American testers experienced included more burdensome application processes and different terms and conditions of rental.

With respect to rental segregation patterns in Massachusetts, housing choice must also be carefully considered. As discussed earlier, the perception of being unwelcome may influence minority residential patterns. Additionally, as discussed in the Action Steps section of this report, explaining housing choice must take into account environmental factors such as familial and community support systems and proximity to transportation and employment, and must not underestimate personal autonomy and preference.

Selected Location Statistics:

Black or African American and Hispanic or Latino incomes in 1999 were lower than White (not Hispanic) household incomes in all selected locations. This disparity was particularly great in Boston, and Hispanics or Latinos and Whites (not Hispanic) had substantially lower incomes in Holyoke, Springfield, Worcester, and New Bedford. Whites (not Hispanic) generally had higher median gross rents than Hispanics or Latinos in the selected locations, with the exception of Lawrence. However, Black or African Americans had higher median gross rents than Whites (not Hispanic) in Westfield, Worcester, Fitchburg-Leominster PMSA, Lawrence, Haverhill, and Lowell. (See Appendix Table 36).

Black or African Americans and Hispanics or Latinos were generally more likely to have 50 percent or more of their household income attributed to gross rent in the selected cities in which they were over-represented than in the selected cities in which they were under-represented. Even *within* selected cities over-represented by minorities, they were more likely to have 50 percent or more of their household income attributed to gross rent than Whites, particularly in Holyoke and Springfield. However, the disparities within many of the selected locations, including locations where Whites were over-represented, were not as substantial. (See Appendix Table 36).

3) Race/Ethnicity, Tenure, and Residential Patterns

Black or African American and Hispanics or Latinos have significantly lower rates of homeownership, and when they do own homes, they are often geographically segregated. At the county level, minority homeownership was most likely to occur in Suffolk County, where the minority share in the rental market is substantially greater than their share in the state householder population. In Massachusetts, almost half

³⁸ See supra note 4.

(49.9%) of African Americans in owner occupied units resided in Suffolk County, contrasted with only 4.9% of Whites (not Hispanic) residing in owner occupied units. Thus, many African American and Latinos who were able to afford homeownership owned homes in Suffolk County, a county also inhabited by disproportionately large numbers of low income African Americans and Latinos yet to attain homeownership. Suffolk County is a geographical location where Black or African Americans disproportionately rent: 72.4% of Black or African Americans rented in Suffolk County, as did 83.9% of Hispanics or Latinos (See Appendix Table 21).

Within the Metropolitan Boston Area, racial and ethnic minorities tend to buy homes in urban and minority concentrated areas: while approximately two-thirds of White homebuyers live in outer suburbs of metro Boston, only 40% of Asians, 29% of Latinos, and 22% of African Americans do so.³⁹ However, these patterns cannot be explained solely by racial/ethnic variations in housing affordability and buying power. As identified by the Harvard Civil Rights Project, in 80% of cities and towns in Metro Boston, African American and Latino homebuyers purchased homes at less than one-half the rate that would be expected based on the homes they are able to afford.⁴⁰ Thus, wealth disparity is not the sole determining factor of residential homeownership patterns amongst minorities, but instead is one of a confluence of factors. As discussed in this report, discriminatory housing practices, as well as housing choice, and the environmental factors that shape such choice, also contribute to Massachusetts' residential patterns.

The fact that minorities disproportionately never even attain homeownership must also not be ignored. In Massachusetts, 66.9% of Whites (not Hispanics) inhabited owner occupied units, while 41.0% of Asians, 31.3% of Black or African Americans and 21.4% of Hispanics or Latinos inhabited owner occupied units. (See Appendix Table 21). However, it is important to recognize the increased share of minority homeownership over time. Pursuant to U.S. Census data, White households represented 96.3% of owner occupied units in Massachusetts in 1990, contrasted with 92.7% in 2000.⁴¹ In the Metro Boston area, Black or African Americans saw the most gains in homeownership in the 1990s compared to other racial (not Hispanic) groups, particularly in Boston, Brockton, and Randolph.⁴² While African American owners

³⁹ Harris, David J. and Nancy McArdle. *More than Money: The Spatial Mismatch Between Where Homeowners of Color in Metro Boston Can Afford to Live and Where They Actually Reside*. The Harvard Civil Rights Project. January 2004.

⁴⁰ Id. (Note: methodological definitions of "affordability" by race/ethnicity were based on home values and adjusted and unadjusted mortgages loan amounts for homes already owned).

⁴¹ U.S. Census 1990 Summary File 3 (sample data), U.S. Census 2000 Summary File 3 (sample data) (Black or African Americans, Hispanics or Latinos, and Asians represented 1.9%, 1.0%, 1.1% of respective households in owner occupied units in 1990, contrasted with 2.3%, 1.7%, and 2.0% in 2000).

⁴² See supra note 39.

increased by 60% in Metro Boston, White owners only increased by 15%.⁴³ Latino owners increased the most in Metro Boston at 70%.⁴⁴

Even in counties over-represented by minorities such as Suffolk County, Whites were more likely to own homes. However, Black or African Americans and Hispanics or Latinos were generally more likely to own homes in counties over-represented by said minorities than in counties over-represented by Whites (not Hispanics). (See Appendix Table 21). A further discussion of this finding on the city level is later discussed in more detail. In counties not over-represented by racial/ethnic minorities, Whites were still more likely to own their homes than minorities. For example, in Middlesex County (where 87.1% of householders were White, not Hispanic), 65.7% of Whites (not Hispanic) owned their homes, contrasted with 29.0% of Black or African Americans and 25.5% of Hispanics or Latinos. In Plymouth County (where 90.5% of householders were White, not Hispanic), 71.5% of Whites (not Hispanic) owned their home, in contrast to 45.5% of Black or African Americans and 39.0% of Hispanics or Latinos. (See Appendix Table 21).

Tenure by Race/Ethnicity of Householder in Massachusetts and All Counties

Massachusetts	Barnstable County	Berkshire County	Bristol County	Dukes County	Essex County	Franklin County	Hampden County
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⁴³ Id.

⁴⁴ Id.

Analysis of Impediments to Fair Housing Access and Action Steps to Mitigate Impediments

Data Analysis of Impediments to Fair Housing in Massachusetts

Black or African American alone:								
Owner occupied	31.3%	51.2%	36.1%	27.1%	78.9%	24.8%	34.9%	38.2%
Renter occupied	68.7%	48.8%	63.9%	72.9%	21.1%	75.2%	65.1%	61.8%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
American Indian and Alaska Native alone:								
Owner occupied	41.4%	68.4%	49.2%	31.8%	95.8%	42.5%	15.3%	41.7%
Renter occupied	58.6%	31.6%	50.8%	68.2%	4.2%	57.5%	84.7%	58.3%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Asian alone:								
Owner occupied	41.0%	52.0%	30.1%	46.3%	50.0%	50.6%	38.4%	48.6%
Renter occupied	59.0%	48.0%	69.9%	53.7%	50.0%	49.4%	61.6%	51.4%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Native Hawaiian and Other Pacific Islander alone:								
Owner occupied	37.0%	0.0%	35.7%	100.0%	100.0%	64.1%	0.0%	33.3%
Renter occupied	63.0%	100.0%	64.3%	0.0%	0.0%	35.9%	0.0%	66.7%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	0.0%	100.0%
Some other race alone:								
Owner occupied	20.9%	54.9%	33.5%	26.8%	47.6%	20.1%	21.2%	17.8%
Renter occupied	79.1%	45.1%	66.5%	73.2%	52.4%	79.9%	78.8%	82.2%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Two or more races:								
Owner Occupied	34.4%	54.7%	38.2%	41.3%	48.4%	30.7%	46.1%	36.1%
Renter Occupied	65.6%	45.3%	61.8%	58.7%	51.6%	69.3%	53.9%	63.9%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Hispanic or Latino:								
Owner occupied	21.4%	53.1%	34.0%	17.7%	50.0%	21.0%	30.8%	19.8%
Renter occupied	78.6%	46.9%	66.0%	82.3%	50.0%	79.0%	69.2%	80.2%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
White alone (not Hispanic):								
Owner occupied	66.9%	78.9%	68.1%	64.3%	72.3%	68.8%	68.2%	70.5%
Renter occupied	33.1%	21.1%	31.9%	35.7%	27.7%	31.2%	31.8%	29.5%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Analysis of Impediments to Fair Housing Access and Action Steps to Mitigate Impediments

Data Analysis of Impediments to Fair Housing in Massachusetts

	Hampshire County	Middlesex County	Nantucket County	Norfolk County	Plymouth County	Suffolk County	Worcester County
Black or African American alone:							
Owner occupied	31.4%	29.0%	47.1%	52.3%	45.5%	27.6%	23.7%
Renter occupied	68.6%	71.0%	52.9%	47.7%	54.5%	72.4%	76.3%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
American Indian and Alaska Native alone:							
Owner occupied	59.7%	42.9%	0.0%	52.0%	41.1%	21.6%	48.9%
Renter occupied	40.3%	57.1%	0.0%	48.0%	58.9%	78.4%	51.1%
Total	100.0%	100.0%	0.0%	100.0%	100.0%	100.0%	100.0%
Asian alone:							
Owner occupied	29.5%	44.3%	21.9%	53.4%	68.4%	21.3%	45.3%
Renter occupied	70.5%	55.7%	78.1%	46.6%	31.6%	78.7%	54.7%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Native Hawaiian and Other Pacific Islander alone:							
Owner occupied	33.3%	18.7%	0.0%	41.1%	50.0%	0.0%	26.2%
Renter occupied	66.7%	81.3%	0.0%	58.9%	50.0%	100.0%	73.8%
Total	100.0%	100.0%	0.0%	100.0%	100.0%	100.0%	100.0%
Some other race alone:							
Owner occupied	20.5%	20.5%	46.8%	36.7%	40.9%	16.4%	16.9%
Renter occupied	79.5%	79.5%	53.2%	63.3%	59.1%	83.6%	83.1%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Two or more races:							
Owner Occupied	46.5%	32.5%	23.2%	49.8%	45.7%	23.8%	33.7%
Renter Occupied	53.5%	67.5%	76.8%	50.2%	54.3%	76.2%	66.3%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Hispanic or Latino:							
Owner occupied	27.6%	25.5%	52.6%	46.2%	39.0%	16.1%	20.1%
Renter occupied	72.4%	74.5%	47.4%	53.8%	61.0%	83.9%	79.9%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
White alone (not Hispanic):							
Owner occupied	67.4%	65.7%	64.7%	71.6%	78.6%	40.7%	68.4%
Renter occupied	32.6%	34.3%	35.3%	28.4%	21.4%	59.3%	31.6%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Source: Author's calculations using U.S. Census 2000 Summary File 3 (SF 3) - Sample Data							

Racial/ethnic differences in homeownership may be explained in part by discrimination in the sales market. In 2006, 0.6% of allegations acts in housing discrimination complaints filed with the Massachusetts Commission Against Discrimination could be attributed to "refusal to sell or discriminatory terms of sale," down from 1.7% in 2005 and 2.3% in 2004. Although said percentages are small, it is important to note that would-be homebuyers are often unaware that they are being discriminated against. For example, although a potential African American homebuyer may not be refused the opportunity to buy or view a home, he or she may be unaware that the sales agent unlawfully "steered," or attempted to unlawfully steer, them to buy in minority neighborhoods. Similarly, he or she may not be aware that the sales agent provided more advantageous service to White homebuyers. As discrimination in sales is often subtle, it may not always be detected by the victim of the discriminatory act.

Testing is an important method for detecting more subtle forms of discrimination in the housing sales market. HUD's 2000 Housing Discrimination Study, "Discrimination in Metropolitan Housing Markets, revealed that White homebuyers were favored over African American homebuyers in 17.0% of tests and over Hispanic homebuyers in 19.7% of tests.⁴⁵ The study concluded that Asians and Pacific Islanders faced consistent adverse treatment 20.4% of the time as homebuyers.⁴⁶

Moreover, sales tests conducted by the Fair Housing Center of Boston between January 2004 and May 2005 in the Greater Boston area indicated that African American and Latino homebuyer testers experienced disadvantageous treatment in almost one half of their attempts to buy homes. Racially and ethnically based disadvantages included inferior services and information with respect to access to agents, properties, and listings, and more onerous requirements such as mortgage pre-approval before a property would be shown. Sales agents were also found to be more encouraging of White testers, and more likely to ask numerous questions regarding job, income, and current housing from the African American and Latino testers.⁴⁷

The implications of said report are that the discouragement and disadvantageous treatment that minority homebuyers may face places them on an unequal playing field in today's highly competitive sales market, and affects not only where they are able to live, but also where they think they can live, and even where they want to live if discrimination is perceived.⁴⁸ The Fair Housing Center of Greater Boston observed in its

⁴⁵ *Discrimination in Metropolitan Housing Markets, Phase 1: African Americans and Hispanics*. The Housing Discrimination Study 2000. The Urban Institute Metropolitan Housing and Communities Policy Center, submitted to the U.S. Department of Housing and Urban Development. November 2002.

⁴⁶ *Discrimination in Metropolitan Housing Markets, Phase 2: Asians and Pacific Islanders*. The Housing Discrimination Study 2000. The Urban Institute Metropolitan Housing and Communities Policy Center, submitted to the U.S. Department of Housing and Urban Development. March 2003.

⁴⁷ See supra note 15.

report that “to the extent that these findings reflect what is happening in the market today, the widely shared goal of increasing homeownership and thereby wealth of people of color is being thwarted by discriminatory real estate practices.”⁴⁹

Selected Location Statistics:

When several of the counties that are over-represented by minorities are broken down into selected cities, and compared to predominantly White cities, segregation and tenure patterns with respect to race and ethnicity persist.⁵⁰ Black or African American homeowners were particularly geographically concentrated in Boston, as 40.4% of Black or African Americans homeowners owned homes in Boston. In Boston, 22.8% of rental units are occupied by Black or African Americans. (See Appendix Table 37). Thus, a large share of Black or African American homeowners were living in proximity to Black or African American renters.

After examining segregation patterns among homebuyers in the Metropolitan Boston Area between 1993 and 1998, The Civil Rights Project of Harvard University found that even minority homebuyers moving out of Boston were buying disproportionately in nearby towns and cities outside Boston. The Civil Rights Project concluded that 40% to 50% of such buyers would have to buy homes in different cities or towns in order to achieve integration in home buying in the Boston Metropolitan area as a whole.⁵¹

Although Black or African Americans and Hispanics or Latinos often bought homes in cities over-represented by minorities, such racial and ethnic groups were generally more likely to rent rather than own in those areas than in areas where they were under-represented (See Appendix Table 37).

Geographical differences alone do not determine the racial/ethnic disparity in homeownership, as minority homeownership rates generally remained lower than White homeownership rates in selected cities varying in region, wealth, and minority representation. Within selected cities over-represented by minority householders, Whites were still more likely to own homes. For example: in Holyoke, 56.0% of Whites (not Hispanics) owned homes compared to 13.1% of Hispanic or Latinos; in Worcester 50.8% of Whites (not Hispanic) owned homes compared to 18.0% of Black or African

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ Supra note 39 (for example, compared to expected purchases based on affordability, Latinos were approximately eight and nine times more likely to buy homes in Lawrence and Chelsea respectively, and African Americans were eleven and seven times more likely to buy in Boston and Randolph).

⁵¹ Stuart, Guy. *Segregation in the Boston Metropolitan Area at the end of the 20th Century.* The Civil Rights Project, Harvard University. February 2000.

Americans; in Lawrence 45.8% of Whites (not Hispanic) owned homes compared to 19.9% of Hispanics or Latinos; and in New Bedford 48.8% of Whites (not Hispanic) owned homes compared to only 13.1% of Hispanics or Latinos. (See Appendix Table 37).

Even within selected predominantly White cities, Whites (not Hispanic) were more likely to own homes than Black or African Americans or Latinos or Hispanics. For example, in Westfield, 69.4% of Whites (not Hispanics) owned their homes, contrasted with only 21.2% of Black or African Americans and 38.3% of Hispanics or Latinos. In the Fitchburg-Leominster PMSA, 66.7% of Whites (not Hispanic) owned their homes, contrasted with 30.0% of Black or African Americans and 21.3% of Hispanics or Latinos. In Haverhill, 63.5% of Whites (not Hispanics) owned their homes, contrasted with 34.5% of Black or African Americans and 20.4% of Hispanics or Latinos. (See Appendix Table 37).

Thus, the persistence of lower homeownership rates within a diverse range of locations is a potential indicator of the effect of discriminatory sales and lending practices in Massachusetts as discussed above.

4) National Origin, Linguistic Isolation, and Residential Patterns

The Massachusetts Institute for a New Commonwealth and the Center for Labor Market Studies 2005 report indicates that foreign immigration status and linguistic isolation has a substantial effect on residential patterns as well as education, employment, and income. For example, immigrants were greater than three times more likely than native-born adults to lack a high school diploma, 25% of immigrant workers that arrived in the 1990s had limited English-speaking skills, and immigrants who only spoke English at home earned on average 2.5 times more than immigrants who did not speak English well.⁵²

As identified by the report, residence trends amongst immigrants and immigrants with limited English-speaking skills were concentrated in certain geographical locations. In 2000, nearly 25% of Suffolk County residents, approximately 25% of Boston residents, and 36% of Chelsea residents were immigrants.⁵³ Foreign born persons that spoke English “not well” or “not at all” accounted for 2.9% of the Massachusetts population, and the county with the largest share of such persons was Suffolk County (7.4%).⁵⁴

⁵² See supra note 8.

⁵³ Id.

⁵⁴ Id.

With respect to cities, Chelsea not only led the state in terms of the share of immigrants, but also in the share of persons with limited English-speaking skills (14%), followed by Lawrence, New Bedford, Lynn, Lowell, Somerville, and Boston (7%).⁵⁵ Within the immigrant population, in 11 out of 20 cities 25% had limited English-speaking skills, and in Lawrence, Lynn, and Fall River, one-third of immigrants had limited English-Speaking skills.⁵⁶

5) Race/Ethnicity and Homeownership Costs

As with tenure and residential patterns, homeownership costs in Massachusetts vary by race and ethnicity. Although more of a measure of value than cost, it is important to note that the median value of homes in Massachusetts and the vast majority of counties varied by race/ethnicity. The median value of a home in Massachusetts for Whites was \$187,000, contrasted with \$147,900 for Blacks or African Americans and \$145,400 for Hispanics or Latinos. (See Appendix Table 22).

It is important to consider the potential economic impact of racial/ethnic segregation on minorities, as certain geographical areas over-represented by Black or African Americans and Hispanics or Latinos had higher housing costs compared to other geographical areas in the state that are over-represented by Whites. Such a pattern can be found at the county level, excluding Worcester and Hampden counties. For example, the median value of an owner occupied home is \$187,300 in Suffolk County and \$222,000 in Essex County, counties over-represented by minorities, which are higher than median home values in Bristol (\$151,500), Plymouth (\$179,200), Franklin (\$119,000), Hampshire (\$142,400), and Berkshire (\$116,800) counties. (See Appendix Table 22).

Even when examining the Greater Boston area, as opposed to statewide county variations, racial/ethnic disparities persist. In Greater Boston, over two-thirds of the 15 communities with the lowest single family home prices were over-represented by non-Hispanic Whites (greater than 81.9% White, not Hispanic) in comparison to the non-Hispanic White share of the Massachusetts population as identified by the 2000 Census data.⁵⁷

⁵⁵ Id. (English speaking skills were “not well” or “not at all”).

⁵⁶ Id.

⁵⁷ See median price data from Heudorfer, Bonnie and Barry Bluestone. *The Greater Boston Housing Report Card 2004: An Assessment of Progress on Housing in the Greater Boston Area*. The Center for Urban and Regional Policy at Northeastern University. September 2005 (the communities ranked lowest in terms of single family home prices, were over-represented, according to U.S. Census 2000 calculations, by Whites, not Hispanics were Dighton, Avon, Dracut, Bellingham, Blackstone, Taunton, Methuen, Townsend, Ayer, Wareham, and Millville); *The Greater Boston Housing Report Card 2005-2006: An Assessment of Progress on Housing in the Greater Boston Areas*. The Center for Urban and Regional

Despite the marked racial/ethnic disparity between median home values, selected monthly costs⁵⁸ for home owners with mortgages did not vary as substantially by race/ethnicity, but were slightly higher for Black or African Americans and Hispanics or Latinos. In Massachusetts, 67.8% of Whites had monthly costs ranging from \$1,000 to \$1,999, compared to 68.2% of Black or African Americans and 72.9% of Hispanics or Latinos. Minorities in owner occupied units with mortgages were more likely to contribute 50% or more of their household income to monthly homeownership costs than Whites. Among such homeowners, 8.4% of Whites (not Hispanics) expended 50% or more of their household incomes for monthly homeownership costs, contrasted with 11.7% of Hispanics or Latinos, and 13.3% of Black or African Americans. In Suffolk County, 11.6% of Whites (not Hispanic), 16.3% of Hispanics or Latinos, and 18.1% of Black or African Americans expended 50% or more of their household incomes for monthly homeownership costs. (See Appendix Table 23).

Within the Hispanic or Latino householder population, owner occupied units with mortgages were more likely to have low monthly costs (less than \$1,000) in Franklin, Hampden, Worcester, and Plymouth Counties; within Black or African American householder populations, owner occupied units with mortgages were more likely to have low monthly costs in Berkshire, Hampden, and Worcester Counties. (See Appendix Table 23).

Selected Location Statistics:

With respect to median home values, variations by race and ethnicity occurred within and across selected locations with high and low minority populations. Median home values in predominantly White locations such as Haverhill were generally higher than geographically comparable locations over-represented by minorities, such as Lawrence. However, even *within* selected locations over-represented by minorities, Whites generally occupied more valuable homes than minorities. For example, in Lawrence, the median valued home was \$116,600 for Whites (not Hispanic), \$106,900 for Black or African Americans, and \$101,900 for Hispanics or Latinos. (See Appendix Table 38). Similarly, in selected locations *under*-represented by minorities, Whites generally occupied more valuable homes. For example, in Newton, the median valued home was \$445,800 for Whites (not Hispanics), \$414,800 for Black or African Americans, \$378,600 for Hispanics or Latinos, and \$355,900 for Asians. (See Appendix Table 38).

Policy at Northeastern University. September. September 2006 (same communities ranked lowest with respect to 2005 median single family home prices with the exceptions of Avon, Ayer, and Methuen).

⁵⁸ The U.S. Census Bureau defined "selected monthly owner costs" as calculations "from the sum of payment for mortgages, real estate taxes, various insurances, utilities, fuels, mobile home costs, and condominium fees."

The burden of housing costs for owner occupied units with mortgages on minority householder incomes tended to be higher in locations with large minority householder populations than in nearby locations with lower minority householder populations. For example, Black or African Americans and Hispanics or Latinos were more likely to spend 50 percent or more of their household income in Holyoke (63.0% White, not Hispanic) and Springfield (55.6% White, not Hispanic) than in nearby Westfield (94.2% White, not Hispanic), in Worcester (76.4% White, not Hispanic) than in the nearby Fitchburg-Leominster PMSA (89.3% White, not Hispanic), and in Boston (58.0% White, not Hispanic) than in nearby Cambridge (71.9% White, not Hispanic). (See Appendix Table 39). The data also illustrates the concentration of highly cost burdened minority homeowners in selected locations. As discussed earlier, minority concentration and segregation patterns may be explained by a variety of factors in addition to wealth and cost burdens, including discriminatory housing practices as well as housing choice.

Furthermore, within cities that had high minority householder populations, Black or African Americans and Hispanics or Latinos in owner occupied units with mortgages tended to spend a greater portion of their incomes on housing than their White counterparts. In Springfield, 9.6% of Whites (not Hispanic) spent 50 percent or more of their income on monthly owner costs compared with 24.2% of Black or African Americans and 15.0% of Hispanics or Latinos. In Lawrence, 7.9% of Whites (not Hispanic) spent 50 percent or more of their income on monthly owner costs compared with 9.2% of Black or African Americans and 15.9% of Hispanics or Latinos. Such racial/ethnic disparity patterns relative to cost burdens were not as marked in selected predominantly White cities. (See Appendix Table 39).

6) Lending Practice Variations by Race/Ethnicity and Income

Higher homeownership costs and lower rates of homeownership among certain demographic groups may be partially explained by the lending practices they experience.

Recent testing by the Fair Housing Center of Greater Boston revealed discriminatory lending practices in the Greater Boston area between October 2005 and January 2006, even among higher income applicants. In 45% of the race/national origin tests (n=20), evidence of discrimination was shown. The test design consisted of ten pairs of racially matched testers with good credit, and ten pairs with mediocre credit, instructed to inquire about a \$475,000 mortgage with a \$25,000 down payment. Testers of color were assigned a credit score 30 points higher, as well as a higher income and lower debt than the White testers. The results revealed that 40% of the "good credit" revealed evidence of discrimination, and 50% of the "mediocre credit" tests revealed

evidence of discrimination.⁵⁹ Alleged discrimination against testers of color included discouraging statements, higher quotes, and/or worse treatment.⁶⁰

For those minorities who are not discouraged and continue on with the loan application process, lending disparities persist.⁶¹ Jim Campen, in his reports for the Massachusetts Community & Banking Council has revealed such disparity. In 2004, the share of home-purchase loans for Blacks was about only one-half of the Black share of households in Boston; for Latinos, the share of home-purchase loans was higher, but only 75.9% of the share of Latino households.⁶² Moreover, the Black/White denial ratio was 2.4, and the Latino/White denial ratio was 2.19. Even more notable was the general finding that Black/White and Latino/White denial rates were greater among applicants with *higher* income levels than lower income levels, thereby undermining a common assumption that higher income minorities are not subjected to discrimination as often.⁶³

When looking beyond Boston and examining the Metropolitan Area Planning Council Region ("MAPC")⁶⁴ as a whole, from 2002-2004 Black/White denial and Latino/White denial ratios (2.64 and 2.34 respectively) were even higher than in Boston. In the seven largest cities outside the MAPC region,⁶⁵ Black or African American and Latino loan applicants were also denied more than Whites, although at lower ratios than in Boston, the MAPC region as a whole, and Massachusetts as a whole.⁶⁶

⁵⁹ *The Gap Persists: A Report on Racial and Ethnic Discrimination in the Greater Boston Home Mortgage Lending Market*. The Fair Housing Center of Greater Boston. May 2006.
<http://www.bostonfairhousing.org/publications.htm>.

⁶⁰ *Id.*

⁶¹ Noting however that data on minority loan applicants is reliant upon the applicant's voluntary disclosure of racial and ethnic identities.

⁶² Campen, Jim. *Changing Patterns XII: Mortgage Lending to Traditionally Underserved Borrowers & Neighborhoods in Greater Boston, 1990-2004*. Mauricio Gaston Institute for Latino Community Development and Public Policy, University of Massachusetts/Boston. Prepared for the Massachusetts Community & Banking Council. January 2006.

⁶³ *Id.* (denial rates were still higher for African Americans (26.8%) and Latinos (21.7%) compared to Whites (8.9%) where incomes were above \$150,000).

⁶⁴ *Id.* (defining "MAPC" as the area consisting of the city of Boston and 100 surrounding communities).

⁶⁵ Brockton, Fall River, Lawrence, Lowell, New Bedford, Springfield, and Worcester (all with populations over 60, 000 from 2002-2004).

⁶⁶ *Id.*

Lending to Black or African American and Latino borrowers in the MAPC region from 2002-2004 was highly concentrated in several communities.⁶⁷ A strong inverse relationship was found between the percentage of lending to low and moderate income borrowers and the median family income within the community. Thus, the fact that Black or African American and Latinos tend to have average lower median incomes than Whites, and that they tend to be concentrated within particular communities, explained in part the lower loan shares of Black or African American and Latino borrowers. However, income alone was an insufficient explanation for racial/ethnic variations in lending: in eight MAPC communities, lending to Blacks and Latinos was very low compared to lending to low and moderate income borrowers.⁶⁸

The benefit of credit unions, with respect to lending to minority areas and lower income households, has fluctuated. In 2001, credit unions had lower disparity ratios between minority and White census tracts than banks/thrifts, although banks/thrifts served a greater share of low and moderate income borrowers.⁶⁹ In 2002 and 2003, banks/thrifts had lower denial disparity ratios than credit unions, although credit unions served a greater share of low and moderate income borrowers.⁷⁰ The inapplicability of the federal Community Reinvestment Act (CRA) to credit unions may provide an additional disadvantage to minority communities.⁷¹ Unfortunately, lenders subject to scrutiny under the Community Reinvestment Act only account for approximately 30% of home-purchase loans in the Metropolitan Boston Area.⁷² In 2005, approximately one-third of the 94 CRA banks in Massachusetts were rated “outstanding” (including nine of Massachusetts’ ten largest banks), as were approximately seven percent of state-chartered credit unions.⁷³ Although no Massachusetts bank currently has a rating of substantial non-compliance, one bank operating in Massachusetts received a “needs to

⁶⁷ Id. (Among Latino borrowers, these communities were namely Boston, Chelsea, Everett, Framingham, Lynn, and Revere; among black borrowers, these communities were namely Boston, Lynn, Malden, Milton, Medford, Randolph, Stoughton, and Everett).

⁶⁸ Id. (the eight communities were listed as Boxborough, Hudson, Natick, Rockland, Weymouth, Stoneham, Winthrop, and Melrose).

⁶⁹ National Community Reinvestment Coalition 2005 Credit Union Report.
<http://www.ncrc.org/policy/states/Massachusetts.pdf> .

⁷⁰ Id.

⁷¹ A National Community Reinvestment Coalition 2005 study found that state-chartered credit unions outperformed federally-chartered credit unions in Massachusetts 69% of the time.
www.ncrc.org/policy/states/CU_Report_Final.pdf .

⁷² Campen, Jim. *The Color of Money: Patterns of Mortgage Lending and Residential Segregation at the Beginning of the New Century*. The Harvard Civil Rights Project. January 2004.

⁷³ Campen, Jim. *CRA Ratings of Massachusetts Banks and Credit Unions in 2005*. Massachusetts Affordable Housing Alliance. February 2006.

improve" rating in 2005.⁷⁴ Several CRA institutions in Massachusetts received "needs to improve" ratings during the 1990s.⁷⁵

Racial and ethnic minorities that are not denied home financing are still disproportionately subjected to unfavorable lending terms. In Boston in 2004, high-APR loans (HALs) were considerably higher in predominantly racial/ethnic minority neighborhoods than in predominantly White neighborhoods.⁷⁶ Moreover, the HAL share for Black or African Americans was 5.8 times greater than the HAL share for Whites in home purchase lending, and 2.4 times greater for refinance lending; for Latinos it was 5.0 and 1.6 times respectively.⁷⁷ Among the upper-income populations, the disparity was even greater: the HAL shares for Black or African Americans and Latinos for home purchase loans was 8.2 and 7.8 times Whites respectively, and the HAL shares for Black or African Americans and Latinos for refinance loans was about 3 times greater than Whites.⁷⁸

Outside of Boston in 2004, HAL shares were found to have a strong correlation with the community share of Black or African Americans and Latinos and an inverse relationship with their median family incomes. Within the Metropolitan Area Planning Council (MAPC) Region,⁷⁹ the five communities with the highest share of HALs in 2004 had 21.5% black plus Latino households on average and a median family income of \$47,022.⁸⁰ Conversely, the five MAPC communities with the lowest HAL shares had 2.1% black plus Latino households on average, and a median family income of \$132,321.⁸¹ Furthermore, among black and Latino borrowers, HALs comprised a

⁷⁴ Id.

⁷⁵ Office of Thrift Supervision (OTS) Community Reinvestment Act database, June 28, 2006. <http://www.ots.treas.gov/crasql/cra-search-form.cfm> . (Said banks were located in Boston, Brockton, Fall River, Fitchburg, Foxborough, Hyde Park, and Whitman, Massachusetts).

⁷⁶ Id. (Mattapan, Roxbury, Dorchester and Hyde Park, the neighborhoods with the highest percentage of minority residents, were also the neighborhoods with the highest HAL shares for home purchase and refinance lending).

⁷⁷ Campen, Jim. *Borrowing Trouble? VI: High-Cost Mortgage Lending in Greater Boston, 2004*. Mauricio Gaston Institute for Latino Community Development and Public Policy, University of Massachusetts/Boston. Prepared for the Massachusetts Community & Banking Council. March 2006.

⁷⁸ Id.

⁷⁹ Id.

⁸⁰ Id.

⁸¹ Id.

greater share of both home purchase and refinance loans in almost every community significantly lending to Black or African Americans or Latinos.⁸²

Outside of Boston and the MAPC region, the seven largest cities had higher HAL shares in 2004: among home purchase loans, high APR shares were higher in Lawrence, Brockton, and Springfield than in any other community in the MAPC region; among refinance loans, HAL shares were higher in Springfield, Lawrence, Brockton, and Lowell than in any MAPC community.⁸³

Racial and ethnic minorities are also more susceptible to being targeted (or “redlined”) for unfavorable and predatory loan terms, often offered by sub-prime lenders, based upon the racial/ethnic composition of the communities they live in. Jim Campen’s 2005 report revealed that for 2003 home purchase lending in Boston, the Black subprime loan share was 3.8 times greater than the White subprime loan share, and the Latino subprime loan share was 3.4 times greater than the white subprime loan share.⁸⁴ For refinance lending in Boston in 2003, the Black subprime loan was 4.7 times greater than the White subprime loan, and the Latino subprime loan share was also 3.4 times greater than the White subprime loan share.⁸⁵

For home purchase and refinance loans within the MAPC region, the Black and the Latino subprime loan shares were similarly greater than the White subprime loan share.⁸⁶ Outside the MAPC region in 2003, such disparities were generally not as high; however, the overall share of subprime loans were higher in Lawrence and Brockton than any community in the MAPC region, and the refinance subprime loan shares were higher in Lawrence, Brockton, Springfield, and New Bedford than any MAPC region.⁸⁷

Subprime lending also varies by the racial and ethnic characteristics of neighborhoods in which loans are made. For example, in Boston, subprime lenders’ share of lending was 6.5 times greater in home purchase lending and 7.5 times greater in refinance lending in predominantly minority neighborhoods than in predominantly White neighborhoods.⁸⁸

⁸² Id.

⁸³ Id.

⁸⁴ Campen, Jim. *Borrowing Trouble? V: Subprime Mortgage Lending in Greater Boston, 2000-2003*. Mauricio Gaston Institute for Latino Community Development and Public Policy, University of Massachusetts/Boston. Prepared for the Massachusetts Community & Banking Council. January 2005.

⁸⁵ Id.

⁸⁶ Id.

⁸⁷ Id.

⁸⁸ Id.

Subprime lending in Boston also varied by neighborhood income characteristics, as subprime lending in home purchase loans and refinance loans were 4.5 times and 9.1 times, respectively, greater in low-income census tracts than in upper-income census tracts.⁸⁹ None of the top twenty subprime lenders with respect to the amount of home purchase and refinance loans were subject to regulatory oversight of their Boston area lending practices under the federal or state Community Reinvestment Acts.⁹⁰

In addition to the over-representation of minorities facing unfavorable and subprime lending, minorities are also over-represented in their share of homeownership loss. National sample data provided by HUD reveals that Black or African Americans and Latinos had shorter durations of homeownership (59.0% and 77.6% of that of Whites respectively).⁹¹ The average Black or African-American homeownership termination rate in 2000 was approximately 215% of Whites, and the Latino termination rate was approximately 169% of Whites.⁹² Furthermore, Black or African Americans and Latinos took 3.5 years and 4 years longer than Whites respectively to return to homeownership.⁹³ In Massachusetts, the disproportionate impact on minorities is of particular concern as the share of subprime loan foreclosures are significantly higher than the share of prime loan foreclosures.⁹⁴

7) Age and Tenure

Age is another demographic category that affects housing choice, particularly as it relates to housing size. In Massachusetts, 12.5% of the total population was age 65 or over in 2000. While 33.5% of renter occupied housing units were one bedroom, only 3.8% of owner occupied units were one bedroom.⁹⁵ However, the current trend of age-restricted housing production in Massachusetts augments housing choice for the

⁸⁹ Id.

⁹⁰ See supra note 80 (in response to the number of subprime lenders not regulated under the federal and Massachusetts CRAs, this report proposed the enactment of the "Homeownership Investment Act, which would required licensed mortgage lenders making at least 50 total loans per year in Massachusetts "a continuing and affirmative obligation...to held meet the housing credit needs of communities in the Commonwealth, including low and moderate neighborhoods and residents.").

⁹¹ Haurin, Donald R. & Stuart S. Rosenthal for the U.S. Department of Housing and Urban Development. *The Sustainability of Homeownership: Factors Affecting Duration of Homeownership and Rental Spells* (December 2004).

⁹² Id.

⁹³ Id. (the average spell before returning to homeownership is over ten years).

⁹⁴ ForeclosuresMass.com (the share of subprime loan foreclosures was 15.5 times greater than that of prime loan foreclosures in the second quarter of 2006).

⁹⁵ U.S. Census Bureau, 2000 Census Summary File 3 (SF 3)--Sample Data.

elderly: in 2005, over 60% of communities in eastern Massachusetts have permitted age restricted housing, and approximately 70 communities have zoning provisions that support senior housing production.⁹⁶ Additionally, there are an estimated 24,000 units of age restricted housing, and approximately 4,000 and 11,000 independent and assisted living residences respectively.⁹⁷

8) Age, Gender, and Poverty Levels

Poverty status also varies by gender and age, which are protected classes under fair housing laws in Massachusetts. Females represented 51.8% of the population in Massachusetts, but were over- represented (57.8%) among those who had income below the poverty level in 1999. The sharpest contrast between males and females occurred among the age group of 75 years and older: 5.3% of those with income below the poverty level in 1999 were females age 75 years and older, while only 1.6% were males age 75 years and older. (See Appendix Table 24).

9) Familial Status, Income Levels, and Tenure

Larger families are more likely to have lower incomes in comparison to the HUD area median family income (AMI) than smaller families. For example, in renter occupied units, 15.5% of small families (2 persons under 62 or 3 or 4 persons) compared to 20.8% of large families (5 or more persons) had very low incomes between 30.1% and 50% of AMI. In owner occupied units, 8.8% of small families compared to 13.3% of large families had low incomes between 50.1% and 80% of AMI. Such income differential by family size is not as great in the extremely low income (less than or equal to 30% of AMI) range. (See Appendix Table 43).

Larger household sizes were generally more likely to reside in owner occupied units than in renter occupied units. For example, among two-person households in Massachusetts, 65.8% lived in owner occupied units, and among five-person households, 74.2% lived in owner occupied units. However, this relationship varied by county. In Suffolk County, where costs of homeownership are high, larger families were disproportionately renters (only 40.9% of five-person households reside in owner occupied units). Furthermore, in counties with lower median incomes, larger families were also disproportionately renters (only 31.2% reside in owner occupied units in Hampden County). (See table below and Appendix Table 25).

⁹⁶ *Age Restricted Active Adult Housing in Massachusetts: A Review of the Factors Fueling its Explosive Growth and Public Policy Issues it Raises*. Citizens' Housing and Planning Association. June 2005.

⁹⁷ *Id.*

Analysis of Impediments to Fair Housing Access and Action Steps to Mitigate Impediments

Data Analysis of Impediments to Fair Housing in Massachusetts

Tenure by Household Size in Massachusetts and All Counties

	All Households	1-person HH	2-person HH	3-person HH	4-person HH	5-person HH	6-person HH	7-or-more-person HH
<u>Massachusetts</u>								
Owner occupied:	61.7%	43.5%	65.8%	67.4%	74.9%	74.2%	69.0%	63.8%
Renter occupied:	38.3%	38.3%	56.5%	34.2%	32.6%	25.1%	25.8%	31.0%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Barnstable County</u>								
Owner occupied:	77.8%	68.0%	83.7%	77.6%	81.5%	81.9%	77.1%	73.8%
Renter occupied:	22.2%	32.0%	16.3%	22.4%	18.5%	18.1%	22.9%	26.2%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Berkshire County</u>								
Owner occupied:	66.9%	46.9%	75.4%	74.5%	79.6%	77.9%	79.3%	75.5%
Renter occupied:	33.1%	53.1%	24.6%	25.5%	20.4%	22.1%	20.7%	24.5%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Bristol County</u>								
Owner occupied:	61.6%	40.2%	66.1%	67.1%	75.2%	75.5%	74.0%	69.4%
Renter occupied:	38.4%	59.8%	33.9%	32.9%	24.8%	24.5%	26.0%	30.6%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Dukes County</u>								
Owner occupied:	71.3%	61.8%	77.7%	67.5%	79.3%	73.9%	92.6%	87.5%
Renter occupied:	28.7%	38.2%	22.3%	32.5%	20.7%	26.1%	7.4%	12.5%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Essex County</u>								
Owner occupied:	63.5%	43.9%	69.1%	70.4%	75.3%	72.5%	67.7%	58.7%
Renter occupied:	36.5%	56.1%	30.9%	29.6%	24.7%	27.5%	32.3%	41.3%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Franklin County</u>								
Owner occupied:	67.0%	48.6%	72.7%	73.6%	78.6%	76.7%	84.5%	73.2%
Renter occupied:	33.0%	51.4%	27.3%	26.4%	21.4%	23.3%	15.5%	26.8%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Hampden County</u>								
Owner occupied:	61.9%	46.7%	69.7%	65.6%	70.6%	68.8%	52.3%	48.2%
Renter occupied:	38.1%	53.3%	30.3%	34.4%	29.4%	31.2%	47.7%	51.8%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Hampshire County</u>								
Owner occupied:	65.0%	46.4%	69.7%	70.9%	78.1%	78.6%	79.0%	71.3%
Renter occupied:	35.0%	53.6%	30.3%	29.1%	21.9%	21.4%	21.0%	28.7%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Middlesex County</u>								
Owner occupied:	61.8%	42.5%	63.4%	68.1%	77.6%	77.3%	73.0%	68.7%
Renter occupied:	38.2%	57.5%	36.6%	31.9%	22.4%	22.7%	27.0%	31.3%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Nantucket County</u>								
Owner occupied:	63.1%	48.5%	64.5%	68.4%	78.2%	78.9%	77.6%	83.9%
Renter occupied:	36.9%	51.5%	35.5%	31.6%	21.8%	21.1%	22.4%	16.1%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Norfolk County</u>								

Analysis of Impediments to Fair Housing Access and Action Steps to Mitigate Impediments

Data Analysis of Impediments to Fair Housing in Massachusetts

Owner occupied:	69.7%	48.8%	70.5%	77.5%	84.7%	87.5%	87.2%	90.7%
Renter occupied:	30.3%	51.2%	29.5%	22.5%	15.3%	12.5%	12.8%	9.3%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Plymouth County</u>								
Owner occupied:	75.6%	56.5%	78.9%	79.9%	83.9%	85.0%	81.4%	79.8%
Renter occupied:	24.4%	43.5%	21.1%	20.1%	16.1%	15.0%	18.6%	20.2%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Suffolk County</u>								
Owner occupied:	33.9%	27.9%	36.1%	35.8%	40.2%	40.9%	40.0%	41.4%
Renter occupied:	66.1%	72.1%	63.9%	64.2%	59.8%	59.1%	60.0%	58.6%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Worcester County</u>								
Owner occupied:	64.1%	43.9%	69.2%	69.4%	76.0%	75.6%	72.0%	68.8%
Renter occupied:	35.9%	56.1%	30.8%	30.6%	24.0%	24.4%	28.0%	31.2%
Total:	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Author's calculations using U.S. Census 2000 Summary File 3 (SF 3) - Sample Data

Income levels and location of homeownership also affect families in terms of the quality of public education parents are able to provide for their children. Boston Magazine's May 2006 reported data offers insight into the relationship between town/city characteristics in the Boston area, such as low median home prices and low MCAS scores. Lowell and Lawrence were the communities with the lowest median home prices last year, and as previously discussed, are cities over-represented by minorities.⁹⁸ Lowell and Lawrence were also among the six communities with the lowest MCAS scores, including Lynn, Cambridge, Boston, and Chelsea.⁹⁹ In contrast to the city of Newton, which had a median home price last year of \$736,400 and a grade 10 MCAS English/math scores of 87/85, the city of Lowell had a median home price last year of \$265,500, and grade 10 MCAS English/Math scores of 45/45.¹⁰⁰

Tenure also impacts a family's ability to accommodate its household size. In Massachusetts, while 60.0% of owner occupied units were between 5 and 7 rooms, 67.1% of renter occupied units were between 3 and 6 rooms. (See Appendix Table 28). Differences by tenure became even more evident in occupancy per room and occupancy per bedroom statistics. Among owner occupied units in Massachusetts, 23.2% had 0.51 to 1.00 occupants per room, compared with 32.6% of renter occupied units in Massachusetts and 37.8% of renter occupied units in Suffolk County. Moreover, renter occupied units were over ten times more likely to have 2.01 or more

⁹⁸ Boston Magazine. *The Best Places to Live*. May 2006. Data source: http://www.bostonmagazine.com/marketing2/Boston_Best (using The Warren Group as the source for the median home prices and MCAS from the Massachusetts Department of Education).

⁹⁹ Id.

¹⁰⁰ Id.

occupants per room than owner occupied units in Suffolk County. (See Appendix Table 27).

Consequently, families with children often have fewer opportunities to accommodate their household size if they rent rather than own their housing units. This is particularly evident due to rental limitations in the number of bedrooms per unit. In Massachusetts, 74.6% of owner occupied units contained between 3 and 5 or more bedrooms, while only 22.7% of renter occupied units contained between 3 and 5 or more bedrooms. In Suffolk County, 56.0% of owner occupied units contained between 3 and 5 or more bedrooms, contrasted with 23.6% of renter occupied housing unit. (See Appendix Table 28).

In addition to the obstacle of finding and affording appropriately sized housing, families with children also face pervasive discrimination in the rental market by housing providers. Between October 2000 and March 2001, the Fair Housing Center of Greater Boston found discriminatory advertising against families (including advertisements indicating a preference for adults, couples, or singles, or limiting the number of persons per bedroom), and less frequently, against recipients of Section 8 Vouchers.¹⁰¹ Phone testing and in-person testing also revealed evidence of discrimination against families with children. In 67% of its familial status tests (n=9), the Fair Housing Center of Greater Boston found that families with children were treated less favorably in rental measures such as notification and follow-up regarding available units, outright denials, and terms and conditions (including rental amounts).¹⁰²

10) Familial Status, Gender, and Tenure

When considering the fair housing implications of affordable housing with respect to families with children, female-headed households with children are a relevant demographic because of their likelihood to rent rather than own homes. According to the U.S. Census 2000 data, female headed households with children under 18 years old and no husband present were far less likely to own their homes than other familial household groups. For example, among married couple householders with children under 18 years of age in Massachusetts, 79.7% owned their homes, compared to only 31.0% of female householders with no husband present. Among married couple householders with children under 18 years of age in Suffolk County, 50.1% owned their homes, compared to only 14.1% of female householders with no husband present. Thus, female householders with children and no husband present are disproportionately in need of housing choice in the rental market compared to other familial household groups.

¹⁰¹ See supra note 3.

¹⁰² Id.

11) Familial Status, Gender, and Race/Ethnicity

In Massachusetts, Black or African Americans and Hispanics or Latinos householders between the ages of 15 to 64 years with children under 18 years were more likely to be female households with no husband present than White (not Hispanic) and Asian householders. Among White (not Hispanic) householders, 22.9% were married couples with children and only 4.7% were female households with children and no husband present. Among Asian householders, 35.6% were married couples with children and 4.6% were female households with children and no husband present. In contrast, among Black or African American householders, 18.1% were married couples with children and 20.2% were female households with children and no husband present. Similarly, among Hispanic or Latino householders, 24.5% were married couples with children and 24.5% were female households with children and no husband present.¹⁰³

12) Regulatory Barriers to Multi-Family Housing

The supply of affordable housing in Massachusetts is largely dependent upon municipal zoning and land use regulations regarding multi-family housing. Unfortunately, the development of multi-family housing is impeded by various regulatory obstacles in Massachusetts. The Pioneer-Rappaport Institute has reported that according to a 2004 survey of 101 cities and towns closest to Boston, only 17% allowed multi-family housing entirely by right (permitted use under zoning by-laws), 68% required special permits,¹⁰⁴ and 16% prohibited it.¹⁰⁵ Furthermore, in 2004, 68% of municipalities had no land zoned for by right multi-family housing, and 25% had no by right land zoned in less than 10% of their land area; 32% of municipalities had no land zoned for multi-family

¹⁰³ U.S. Census Bureau, 2000 Census Summary File 3 (SF 3)--Sample Data.

¹⁰⁴ Massachusetts General Laws Chapter 40A, Section 9 (1975) states that "Special permits may be issued only for uses which are in harmony with the general purpose and intent of the ordinance or by-law, and shall be subject to general or specific provisions set forth therein; and such permits may also impose conditions, safeguards and limitations on time or use. Zoning ordinances or by-laws may also provide for special permits authorizing increases in the permissible density of population or intensity of a particular use in a proposed development; provided that the petitioner or applicant shall, as a condition for the grant of said permit, provide certain open space, housing for persons of low or moderate income, traffic or pedestrian improvements, installation of solar energy systems, protection for solar access, or other amenities.... Zoning ordinances or by-laws may provide that special permits may be granted for multi-family residential use in non-residentially zoned areas where the public good would be served and after a finding by the special permit granting authority, that such nonresidentially zoned area would not be adversely affected by such a residential use, and that permitted uses in such a zone are not noxious to a multi-family use."

¹⁰⁵ Shuetz, Jenny. *Guarding the Town Walls: Mechanisms and Motives for Restricting Multi-family Housing in Massachusetts*. Kennedy School of Government. March 2006 (citing Pioneer Institute for Public Policy Research and the Rappaport Institute for Greater Boston. *Massachusetts Housing Regulation Database*. Prepared by Amy Dain and Jenny Schuetz. 2005).

housing by special permit, and 35% allowed multi-family housing by special permit in less than 10% of their land area.¹⁰⁶

Municipalities allowing multi-family housing by right were less likely to require that multi-family lot sizes be over 40,000 square feet than municipalities allowing multi-family housing by special permit: over 75% of multi-family housing by right was allowed in lots under 40,000 square feet, contrasted with 60% of multi-family housing by special permit.¹⁰⁷ With respect to the number of allowable lots, municipalities with multi-family housing by special permit were more likely to allow more than 500 lots for multi-family housing than municipalities with multi-family housing by right.¹⁰⁸ Thus, while multi-family housing by right may be regarded as more stringent zoning because it restricts the number of allowable lots for development (leaving redevelopment as an alternative), multi-family housing allowed by special permit also faces limitations because of higher land-area requirements.¹⁰⁹

A further discussion of statutes and policies that address regulatory barriers to affordable housing is included in the Action Steps and Recommendations to Affirmatively Further Fair Housing Access section of this report. Namely, Massachusetts General Laws Chapter 40B was enacted to address the shortage of affordable housing statewide by reducing local barriers to affordable housing. Chapter 40B enables local Zoning Boards of Appeals (ZBAs) to approve affordable housing developments under flexible rules if at least 20-25% of the development units have long-term affordability restrictions.

13) Familial Status, Race/Ethnicity, and Lead Paint

Lead poisoning caused by inhabiting housing with lead paint is a serious concern for families with children, and particularly for families living in low income areas with old housing stock. As the Massachusetts Department of Public Health's Childhood Lead Prevention Program (CLPPP) reports, children between the ages of 9 months and 6 years are most at risk for lead poisoning. CLPPP has provided a listing of high risk communities for child (6 to 72 months) lead poisoning during July 1, 2000 through June 30, 2005.¹¹⁰ All of the fifteen communities CLPPP found to be at high risk for

¹⁰⁶ Shuetz 2006.

¹⁰⁷ Id.

¹⁰⁸ Id.

¹⁰⁹ Id.

¹¹⁰ Childhood Lead Poisoning Prevention Program. "Screening and Incidence Statistics," Fiscal Year 2005. www.mass.gov/dph/clppp. The "High risk" community list composed by CLPPP required at least fifteen cases and an incidence rate of blood lead levels greater than or equal to a 20 mcg/dL per 1000

childhood lead poisoning had at least a 40% low or moderate income population share, and at least 43% of its housing stock was built pre-1950.¹¹¹ Furthermore, nine of the fifteen communities had over 30% of their population comprised of minorities according to U.S. Census 2000 figures.¹¹² Said cities included Boston, Lowell, Lawrence, Springfield, and Holyoke. For further discussion of lead based paint housing in Massachusetts, see the Massachusetts Department of Housing and Community Development's Consolidated Plan, FY 2005-2009.¹¹³

14) Transportation, Tenure, and Race/Ethnicity

Householders in owner occupied units were more likely to have a vehicle available to them than householders in renter occupied units. Among householders in owner occupied units, 4.4% in Massachusetts and 13.6% in Suffolk County had no vehicle available to them, compared with 26.1% of householders in renter occupied units in Massachusetts and 42.3% in Suffolk County. Householders in owner occupied units were also substantially more likely to have more than one vehicle available to them than householders in renter occupied units. (See Appendix Table 29). These findings are not surprising, given that homeowners often have higher incomes than renters.

In Massachusetts, race and ethnicity are important predictors of transportation access. In Massachusetts, 10.3% of Whites (not Hispanic) had no vehicle available to them, compared to 19.7% of Asians and 30.1% of Black or African Americans and 31.6% of Hispanics or Latinos. As many as 38.6% of Hispanics or Latinos had no vehicle available to them in Hampden County. (See Appendix Table 30). Thus, Black or African Americans and Hispanics or Latinos are substantially more disadvantaged than Whites (not Hispanic) with respect to access to housing, employment, and services beyond areas that are feasibly reachable by public transportation.

children screened per year (averaged over the last five years) above the state rate, after adjusting for low income and old housing stock (built pre-1950).

¹¹¹ Id.

¹¹² Id; Author's calculations using U.S. Census Bureau, 2000 Census Summary File 3 (SF 3)--Sample Data.

¹¹³ <http://www.mass.gov/dhcd/Temp/05/05-09plan/default.htm> .

Analysis of Impediments to Fair Housing Access and Action Steps to Mitigate Impediments

Data Analysis of Impediments to Fair Housing in Massachusetts

Vehicles Available by Race/Ethnicity of Householders in Massachusetts and All Counties

	Massachusetts	Barnstable County	Berkshire County	Bristol County	Dukes County	Essex County	Franklin County	Hampden County
White alone (not Hispanic):								
No vehicle available	10.3%	4.8%	10.4%	10.5%	3.7%	9.1%	7.6%	9.9%
1 or more vehicles available	89.7%	95.2%	89.6%	89.5%	96.3%	90.9%	92.4%	90.1%
Total	100.0%	100.0%	100.0%	100.00%	100.0%	100.0%	100.0%	100.0%
Black or African American alone:								
No vehicle available	30.1%	15.1%	26.7%	27.6%	9.2%	27.7%	8.1%	28.2%
1 or more vehicles available	69.9%	84.9%	73.3%	72.5%	90.9%	72.3%	92.0%	71.8%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Hispanic or Latino:								
No vehicle available	31.6%	10.4%	24.9%	31.2%	0.0%	27.5%	13.0%	38.6%
1 or more vehicles available	68.4%	89.6%	75.1%	68.8%	100.0%	72.5%	87.0%	61.4%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Asian alone:								
No vehicle available	19.7%	5.6%	15.8%	10.9%	14.3%	10.9%	4.9%	12.8%
1 or more vehicles available	80.3%	94.4%	84.2%	89.1%	85.7%	89.1%	95.1%	87.2%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Some other race alone:								
No vehicle available	31.5%	4.8%	25.9%	28.3%	0.0%	26.5%	25.8%	39.9%
1 or more vehicles available	68.5%	95.2%	74.1%	71.7%	100.0%	73.5%	74.2%	60.1%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Two or more races:								
No vehicle available	23.2%	7.8%	28.8%	20.5%	2.2%	26.1%	6.1%	27.4%
1 or more vehicles available	76.9%	92.2%	71.2%	79.5%	97.8%	73.9%	93.9%	72.6%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Author's Calculations using U.S. Census 2000 Summary File 3 (SF 3)—Sample Data

Racial and ethnic minorities are also more likely to rely on public transportation. While 7.0% of White workers over age 16 used public transportation to commute to work, 23.9% of Black or Africans workers over age 16 and 17.5% of Hispanics or Latino workers over age 16 did so. (See Appendix Table 31). Unfortunately, Massachusetts has spent three to four times more of its federal transportation funds on highways

rather than on public transportation.¹¹⁴ Within the city of Boston, according to the Boston Indicators Project, only 41% of Black or African Americans and 54% of Latinos reside within one quarter mile of rail transit, contrasted with 60% of Whites (not Hispanic) and 76% of Asians.¹¹⁵

The over-representation of racial/ethnic minority reliance on transportation has a likely impact on employment opportunities for individuals that cannot afford housing in alternative areas, cannot afford moving costs to alternative areas, or that have ties to their residential area. In Massachusetts, 2.6% of Whites were unemployed, and 33.0% were not in the labor force, compared with 5.9% and 37.5% of Black or African Americans respectively, and 6% and 41.5% of Hispanics or Latinos respectively. (See Appendix Table 32). In Boston, the unemployment rates for Latinos and African Americans were over twice as high as Whites.¹¹⁶

In the Metropolitan Boston area, job growth has been occurring in the outer suburbs, away from the areas with the greatest minority growth. While 56% of the Latino, 48% of the African American, and 33% of the Asian net population growth occurred in the urbanized satellite cities, only 4% of the net job growth occurred in those areas.¹¹⁷ In contrast, 71% of the net job growth in Metropolitan Boston occurred in the outer suburbs, while only 18% of the Latino, 24% of the African American, and 30% of the Asian net population growth occurred in those areas.¹¹⁸

Selected Location Statistics:

Vehicle availability also varied substantially between Whites and Black or African Americans and Hispanics or Latinos within and across selected cities, particularly as the distance between the selected cities and Boston increased. Individuals in selected predominantly White cities, across races, were more likely to have a vehicle available than in cities over-represented by racial/ethnic minorities. (See Appendix Table 40).

Within cities over-represented by racial/ethnic minorities, differences by race/ethnicity were substantial. For example, in Springfield, 14.1% of Whites (not Hispanic)

¹¹⁴ *On the Move: Platform for Just Transportation and Livable Communities*. Greater Boston Transportation Justice Coalition.

¹¹⁵ Boston Indicators Project 2004. www.bostonindicators.org.

¹¹⁶ *Id.*

¹¹⁷ McArdle, Nancy. *Racial Equity and Opportunity in Metro Boston Job Markets*. The Civil Rights Project at Harvard University. December 2004.

¹¹⁸ *Id.*

contrasted with 29.3% of Black or African Americans and 38.8% of Hispanics or Latinos did not have a vehicle available. In Worcester, 15.3% of Whites (not Hispanic) had no vehicle available, contrasted with 24.6% of Black or African Americans and 33.8% of Hispanics or Latinos. In New Bedford, 19.1% of Whites (not Hispanic) had no vehicle available, contrasted with 29.3% of Black or African Americans and 36.2% of Hispanics or Latinos. Even within predominantly White locations, such as Westfield, Fitchburg-Leominster PMSA, and Haverhill, Whites (not Hispanic) were more likely to have a vehicle available than Black or African Americans and Hispanics or Latinos. (See Appendix Table 40). Lower median household incomes of Black or African Americans and Hispanics or Latinos compared to Whites (not Hispanic) in all selected locations, combined with housing costs, may attribute to racial and ethnic disparities.

C. Data on Public Housing and Rental Assistance Programs in Massachusetts

State public housing and rental assistance in Massachusetts is comprised of numerous programs to meet the housing needs of low income and special needs housing populations. These programs include Section 200 (Veterans family low income), Section 667 (elderly and handicap low income housing), Section 705 (family low income), Sections 167 and 689 (special needs housing providing specialized services for the mentally and physically disabled), MRVP (Massachusetts Rental Voucher Program), and AHVP (Alternative Housing Voucher Program) for disabled persons.

Pursuant to data provided to DHCD for local housing authority (LHA) units through December 31, 2005, the plurality of units in the aforementioned programs belonged to conventional Section 667 housing (31,964 units), Section 200 housing (12,615 units), MRVP housing (4,612 units), Section 705 housing (3,156 units), and Sections 167 and 689 (1,898 units). Thus, disabled and elderly received a substantially larger share of rental assistance than non-disabled and non-elderly households. However, further rental assistance is provided through HUD programs, as discussed further below.

With respect to geographical location of the LHA public housing and rental assistance programs, conventional Section 667 housing, which was substantially dispersed across communities (Framingham had the largest share at 1.8%). Boston and Methuen each had the largest share (3.0%) of Section 167/689 housing. Section 705 housing was more concentrated by community, although in geographically diverse locations: New Bedford had the largest share of Section 705 housing (5.4%), followed by Boston (4.5%), Fitchburg (3.5%). Newton, a comparably wealthy community, contained 2.5% of Section 705 housing. Section 200 and MRVP housing were the most concentrated by community. Boston held the greatest share of Section 200 housing and MRVP housing (19.6% and 16.5% respectively), followed by Worcester (4.7% and 4.7% respectively). For further information on state public housing and rental assistance by local housing authority and for state public housing and rental assistance by regional administering agencies, see Appendix D.

This data indicates that eligible disabled and elderly populations received a substantial share of state public housing and rental assistance. Moreover, the data indicates that state public housing and rental assistance was substantially distributed across many communities. HUD housing was more concentrated by community, with Boston representing 33.3% of HUD units, followed by Worcester at 6.2%.¹¹⁹ Similarly, Boston represented the plurality of HUD Section 8 housing units at 24.6%, followed by Springfield at 4.9%.¹²⁰ Although Boston, Worcester, and Springfield are the largest cities in Massachusetts, they only comprise approximately 9.3%, 2.7%, and 2.4% of the Commonwealth's total population respectively. The importance of mobile rental vouchers in furthering regional equity is discussed in the Action Steps section of this report.

1) Minority and Disabled Households in State Public Housing¹²¹

A. Family Housing

In family housing units, 12,335 units were reported by local housing authorities (LHAs) in 2005 as occupied; 6,717 or 54.5% of those household identified themselves as minority households.¹²² Thus, the share of minority households was substantially greater than the minority share of the state overall householder population (see Tables 9 and 10) and the state very low-income population. 34.6% of households with incomes at or below 30% AMI are minority households, and 32.9% of households with incomes at or below 50% AMI are minority households.¹²³ Despite this over-representation, HUD CHAS 2000 rental data reveals that minorities are disproportionately low and extremely low income in comparison to Whites. For example, 41.6% of Hispanic or Latino and 33.3% of Black or African American renter households have incomes at or below 30% AMI, compared to 23.9% of Whites (See Appendix Table 42).

¹¹⁹ Data provided to DHCD by local housing authorities through December 1, 2005.

¹²⁰ Id.

¹²¹ It should be noted that a household may be reported in any number of combination of these categories. Also in communities where an LHA has met its affirmative action goal placements are made without regard to an applicant household's race or ethnicity and, therefore, are not included in the reported placements having received affirmative action preference.

¹²² Source: Massachusetts Department of Housing and Community Development Placement History for Family Housing (Chapters 200 & 705) as reported by all but thirty eight local housing authorities in 2005.

¹²³ HUD CHAS 2000 SOCDS data.

The over-representation of minorities in state family public housing was more concentrated in certain communities, particularly in communities that are cities and have high minority populations. One hundred and thirty five LHAs reported less than 20% of households were identified as minority households. Among those, twenty-eight LHAs had minority shares below the minority share in the applicable MSA or PMSA.¹²⁴ Eighty-four local housing authorities reported greater than 20% of households identified as minority households; sixty reported greater than 30%; thirty-one housing authorities reported greater than 50%; and six reported greater than 75%. The six additional local housing authorities identified as having greater than 75% minority households were Worcester (75.0%), Adams (77.3%), Cambridge (81.9%), Boston (83.1%), Holyoke (89.9%), and Lawrence (95.7%) housing authorities.

Disabled households were not as concentrated by housing authority as minority households. As reported by local housing authorities in 2005, 2,219 or 18.0% of the 12,335 households had at least one member with a disability.¹²⁵ Twenty-two housing authorities reported greater than 20% of households as disabled (including Boston), eleven reported greater than 30% (including New Bedford and Worcester), two reported greater than 50% as disabled, and none reported greater than 75% identified as disabled.¹²⁶

B. Elderly Housing

Elderly housing, as reported by local housing authorities in 2005, generally had far smaller shares of minority households compared to the overall low income population. As reported, 25,761 units were occupied; 2,552 or 9.9% of those households identified themselves as minority households.¹²⁷ Two hundred and one local housing authorities reported less than 20% of households as minority households; eighteen local housing authorities reported greater than 20% of households as minority households, seven reported greater than 30%, and six reported greater than 50%.

As reported by local housing authorities, 3,706 or 14.4% of the 25,761 households had at least one household member with disabilities.¹²⁸ Thirteen local housing authorities

¹²⁴ According to U.S. Census Bureau 2005 American Community Survey. Five of the twenty-eight LHAs applied affirmative placement preferences.

¹²⁵ See *supra* note 122.

¹²⁶ See *supra* note 122.

¹²⁷ Source: Massachusetts Department of Housing and Community Development Placement History for Elderly Housing (Chapter 668) as reported by local housing authorities in 2005.

¹²⁸ *Id.*

reported greater than 20% of households as disabled, five reported greater than 30% as disabled, and one reported greater than 75% as disabled.

2) Local and Affirmative Action Preferences in State Public Housing

A. Family Housing

During calendar year 2005, of the 1,655 households in family housing: 465 or 28.1% of those households received the affirmative action preference in placement,¹²⁹ and 1,163 or 70.3% received local preference in their placement.¹³⁰ A further discussion of local preferences and their potential for yielding a disparate impact on minorities is found in the Legal Framework and Action Steps sections of this report.

Local preferences, particularly local preference applied to over 70% of placed applicants, were likely to occur in communities over-represented by minority households. Among housing authorities placing greater than 20 applicants in 2005: six housing authorities had 100% of placements receiving a local preference (Cambridge, Malden, Framingham, Medford, Lawrence, and Watertown);¹³¹ nine additional housing authorities had greater than 70% of placements receiving a local preference (Revere, Salem, Holyoke, Taunton, Chelsea, Worcester, Everett, Somerville, and Quincy)¹³²; and ten additional housing authorities had greater than 50% of placements receiving a local preference (New Bedford, West Springfield, Gloucester, Boston, Fall River, Winthrop, Woburn, Beverly, Greenfield, and Brookline).¹³³

Affirmative action preferences were also likely to occur in communities over-represented by minorities, and often concurrently in communities offering significant local preferences. Among the aforementioned housing authorities with greater than 50% of placements receiving a local preference, greater than 50% of placements *also* received an affirmative action preference in Holyoke (92.7% of placements received an affirmative action preference), followed by Taunton (90.6%), Quincy (70.3%),

¹²⁹ Pursuant to 760 CMR 5.10(3), "on an annual basis each LHA shall determine whether the number of households in its family housing with at least one minority member and the number of minority households in its elderly/handicapped housing with at least one minority members meets the applicable affirmative action goal...the LHA shall provide an affirmative action preference for the type of housing involved until the goal is met...the (placement) rate (for a twelve month period) shall not be higher than 33.33% nor less than 20% of all placements for the housing involved."

¹³⁰ See supra note 104.

¹³¹ See supra note 104 (n= 26, 29, 33, 37, 38, and 39 placed applications respectively), as reported by all but thirty-eight Local Housing Authorities for 2005.

¹³² Id. (n= 33, 31, 41, 32, 30, 125, 50, 49, and 64 placed applications respectively).

¹³³ Id. (n= 82, 39, 28, 210, 95, 25, 27, 25, 30, and 28 placed applications respectively).

Somerville (67.3%), Medford (64.9%), Salem (64.5%), Fall River (63.2%), and Everett (62.0%) housing authorities.¹³⁴ Overall, among housing authorities with greater than 20 placements in 2005, nine housing authorities had more than 50% of placements receiving an affirmative action preference. Nine housing authorities with greater than 50% of placements receiving a local preference had *no* affirmative action preference: Cambridge, Malden, Chelsea, Framingham, Revere, Lawrence, New Bedford, Worcester, and Boston.¹³⁵

B. Elderly Housing

During calendar year 2005, LHAs reported having placed a total of 3,312 households in elderly housing: 251 or 7.6% of those households received the affirmative action preference in placement; and 2,263 or 68.4% received local preference in their placement.

Eighteen housing authorities receiving greater than 20 placements in 2005 that did not offer local preferences in family housing units *did* provide local preferences for greater than 70% of the placements for elderly housing units, and nine additional housing authorities provided local preferences for greater than 50% of the placements for elderly housing units. These local housing authorities were primarily located in communities not over-represented by minorities. No affirmative action preferences were provided to greater than 50% of the applications for elderly housing units.

¹³⁴ Id.

¹³⁵ Id.

3) Public Housing and Rental Assistance Programs for the Disabled in Massachusetts

In addition to the state rental assistance programs for the disabled under Chapters 667, 167 and 689 discussed above, DHCD administers the state Alternative Housing Voucher Program (AHVP), a tenant based voucher program that provided approximately 236 subsidies for disabled persons in 2005. DHCD also administers the Facilities Consolidation Fund (FCF), a bond-financed loan program for the development of community based housing for Department of Mental Health and Department of Mental Retardation clients. For further analysis of special needs populations, including needs assessment, current response, and existing resources, see DHCD's Consolidated Plan Housing and Community Development Needs Assessment, Appendix C.

DHCD administers federally funded subsidies throughout the Commonwealth, such as the following voucher programs: the Section 8 Housing Choice Voucher/Designated Housing Program, which serves very low income disabled and provided approximately 600 subsidies in 2005; the Section 8 Housing Choice Voucher/Mainstream Housing Program, which serves individuals and families with a disabled head of household or spouse and provided approximately 275 subsidies in 2005; and the Section 8 Housing Choice Voucher/Tenant-Based Rental Assistance for Persons Living with HIV/AIDS, which serves very low-income persons with HIV/AIDS and provided approximately 217 subsidies in 2005. Additionally, DHCD's McKinney Shelter Plus Care Program, which serves supportive services for disabled homeless individuals and families, distributes approximately 350 Shelter Plus Care subsidies throughout the Commonwealth.

Other DHCD administered federal rental assistance programs for the disabled, including the Housing Options Program (HOP) for disabled persons who are homeless or living in transitional housing, the Section 8 Housing Choice Voucher/Independent Living Program, the Section 8/Housing Choice/Department of Mental Retardation Voucher Program and Department of Mental Health Voucher Program, and the project based AIDS program, accounted for over approximately 645 subsidies throughout the Commonwealth in 2005. Providing sufficient subsidies for special needs persons is challenging, as low turnover rates have the potential to yield over-leasing.

HUD multifamily housing developments in Massachusetts also provide housing for the disabled in subsidized developments. In various locations across Massachusetts, approximately 429 HUD multi-family units were provided to the physically disabled (all with subsidy): approximately 158 units were in developments exclusively serving physically disabled persons, and approximately 271 were in developments partially serving physically disabled persons.¹³⁶ HUD developments subsidized for the

¹³⁶ Author's calculations using HUD Multifamily Housing was provided by the HUD Boston Multifamily HUB Operations Division directory. August 2005. The directory includes developments with project subsidies (units provided at reduced rents though mortgage interest subsidies) and with tenant subsidies (tenants pay a percentage of their adjusted monthly income, up to 30%, toward their rent and HUD makes a

developmentally disabled across Massachusetts included approximately 471 units (450 with subsidy).¹³⁷ HUD Developments subsidized for the chronically mentally ill across Massachusetts were comprised of approximately 662 units (approximately 547 with subsidy).¹³⁸ Additionally, HUD multifamily housing included developments with units partially for elderly and disabled households; said developments were comprised of approximately 11,755 units (8,680 with subsidy) across Massachusetts.¹³⁹

Although physically disabled households were most likely to be integrated in housing with non-disabled households in HUD multifamily housing, units for the physically disabled were most likely to be concentrated by community: approximately 36.4% of HUD units for the physically disabled were in Roxbury, followed by Worcester (approximately 13.6%) and Boston (approximately 11.3%).¹⁴⁰

State obligations for providing community based housing for disabled individuals were made clear in the *Olmstead v. L.C.* decision.¹⁴¹ DHCD's Community Based Housing (CBH) program administers loans to non-profit developers and owners that create long term integrated housing for persons with disabilities with incomes at or below 80% of the Area Median Income. "Integrated housing" refers to housing that is not wholly designated for disabled persons. In funding year 2006, CBH accounted for 20 affordable units for single person households located in Allston, Boston, Foxboro, Gloucester, Ipswich, Lawrence, and Stockbridge. A further discussion on integrated and community based housing is found in the Action Steps section of this report.

subsidy payment on behalf of the payment). Care facilities (intermediate, skilled) were excluded from author's calculations.

¹³⁷ Id.

¹³⁸ Id.

¹³⁹ Id.

¹⁴⁰ Id (author's calculations).

¹⁴¹ 527 U.S. 581 (1991) (holding such placement in community settings must occur when the State's treatment professionals have determined that community placement is appropriate, the transfer from institutional care to a less restrictive setting is not opposed by the affected individual, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities).

4) HUD PIC Data on Public Housing and Rental Assistance¹⁴²

I. *Race and Ethnicity*

All relevant HUD programs (including Moderate Rehabilitation Section 8 programs and homeownership vouchers) in Massachusetts served 96,995 households:¹⁴³ 74% were represented by White only households,¹⁴⁴ 22% were represented by Black/African American only households, 29% were represented by Hispanic households, and 3% were represented by Asian only households. Race and ethnicity household characteristics did not vary substantially by the HUD programs discussed below.

Thus, minorities were over-represented in rental assistance programs in comparison to their share of low income and extremely low income households in renter occupied units pursuant to HUD CHAS data discussed above with respect to state public housing and rental assistance (also see Appendix Table 42).

A larger share of minority households remains on waiting lists, as indicated by the Section 8 program. While racial or ethnic minority households constitute 51% of state tenant based Section 8 and 60% of DCHD tenant based Section 8, they constitute 54% of PHA waiting list applicants and 68% of DHCD Housing Choice Voucher Section 8 waiting list applicants.¹⁴⁵ Moreover, despite HUD's 75% mandate for households with incomes below 30% of AMI, 85% of households on the waiting list had such extremely low incomes.¹⁴⁶

¹⁴² Id. HUD's PIH Information Center (PIC) compiles information electronically submitted by housing authorities.

¹⁴³ Id. 96,995 50058 (form) Received; 107,928 Annual Contributions Contract units. Data source: U.S. Department of Housing and Urban Development, Public Information Center. Effective Dates Included: May 01, 2005 through August 31, 2006.

¹⁴⁴ Unlike HUD CHAS data, White only (not Hispanic) was not provided.

¹⁴⁵ Id; Department of Housing and Community Development Centralized waiting list as of mid September 2006 and NAHRO (National Association of Housing and Redevelopment Officials) waiting list as of September 28, 2006.

¹⁴⁶ Id. (as of March 2006). The Massachusetts Department of Housing and Community Development provides preference to the remaining 25% of households to have incomes between 30% and 50% of the area median income.

A. Public Housing

HUD public housing in Massachusetts was comprised of 29,074 households¹⁴⁷; 73% were White only, 20% were Black/African American only, 6% were Asian only, and 32% were Hispanic. Among HUD public housing and rental assistance programs, the share of minorities was greatest in public housing, although only slightly greater than tenant based Section 8 housing. The greatest number of minorities was in tenant selected housing. See Appendix E for public housing information by race and ethnicity and metropolitan statistical area. The benefits of housing mobility and racial/ethnic deconcentration are discussed further in the Action Steps section of this report.

B. Tenant Based Section 8 Vouchers

HUD tenant based Section 8 Vouchers were comprised of 64,776 households;¹⁴⁸ 74% were White only, 22% were black/African American only, 2% were Asian only, and 27% were Hispanic. DHCD tenant based Section 8 housing was comprised of 17,679 households, 69% were White only, 28% were Black/African American only, 2% were Asian only, and 30% were Hispanic. See Appendix E for tenant based section 8 voucher information by race and ethnicity and metropolitan statistical area.

C. Project Based Section 8 Vouchers and Certificates

HUD project based Section 8 Vouchers and Certificates were comprised of 812 households.¹⁴⁹ The share of minorities was lowest in project based Section 8 housing, which also had the highest share of disabled households. As a whole, HUD project based Section 8 was comprised of 812 households; 89% were White only, 10% were Black/African American only, 1% were Asian only, and 36% were Hispanic. DHCD project based Section 8 housing was comprised of 181 households, 91% were White only, 6% were Black/African American only, 2% were Asian only, and 35% were Hispanic. See Appendix E for project based Section 8 information by race and ethnicity by state and metropolitan statistical area.

II. *Family Households*

Among all relevant HUD programs in Massachusetts (including Moderate Rehabilitation Section 8 programs and homeownership vouchers), the average household contains 2.2 members, a plurality of family households with children (42%) households were female headed. The share of female headed households with children was largest in the

¹⁴⁷ Figure based on 50058 forms received.

¹⁴⁸ Figure based on 50058 forms received.

¹⁴⁹ Figure based on 50058 forms received.

tenant based Section 8 program (50%). Non-elderly, non-disabled households accounted for 35% of households. A further discussion of family characteristics by selected HUD programs is found below.

A. Public Housing

HUD public housing was comprised of 29,074 households. The average household size was 1.9, 27% of households are female headed with children, 24% are non-elderly, non-disabled households with children, and 42% of funding was provided to units with greater than or equal to two bedrooms. Thus, families with children still faced fewer housing choices with respect to unit size, although to a significantly lesser extent than private housing as discussed earlier in this report. See Appendix E for public housing information on families by state and metropolitan statistical area.

B. Tenant Based Section 8 Vouchers

All tenant based Section 8 housing and DHCD tenant based Section 8 housing had the largest average household size (2.4 and 2.6 members respectively), the largest percentage (73% and 79% respectively) of funding provided to units containing greater than or equal to two bedrooms, the largest share of female headed households with children (50% and 57% respectively), and the largest share of non-elderly, non-disabled households with children (40% and 45% respectively) than its public housing and project based Section 8 counterparts. See Appendix E for public housing information on families by state and metropolitan statistical area.

C. Project Based Section 8 Vouchers and Certificates

All project based Section 8 housing had an average household size of 1.6 members, 24% of households were female headed with children, 22% were non-disabled, non-elderly households with children, and 31% of funding was provided to units containing greater than or equal to two bedrooms. DHCD project based Section 8 housing had an average household size of 2 members, 45% of households were female headed with children, 41% were non-elderly, non-disabled households with children, and 57% of funding was provided to units containing greater than or equal to two bedrooms. See Appendix E for project based Section 8 information on families by state and metropolitan statistical area.

Thus, family households with children do not appear to be under-represented in HUD public housing and rental assistance programs in comparison to their share of low income households in renter occupied units pursuant to HUD CHAS data. HUD CHAS 2000 data for renter occupied units indicated that 33.1% of households with incomes below 80% of AMI were small families (2 persons <62 yrs, or 3 or 4 persons) and 7.8% were large families; 28.2% and 6.4% of households with incomes below 30% of AMI

were small families and large families respectively.¹⁵⁰ However, said HUD CHAS 2000 small and large family low income data may not be a sufficient proxy for data on low income families with children.

III. *Disabled and Elderly Households*

Among all relevant HUD programs in Massachusetts (including Moderate Rehabilitation Section 8 programs and homeownership vouchers), 24% of families were disabled, non-elderly households with no children, 11% were disabled, elderly households with no children, 10% were disabled, non-elderly with children, and 1% were disabled, elderly with children. A further discussion of disabled and elderly household characteristics by selected HUD programs is found below. The percentage of non-elderly disabled households did not vary substantially by selected HUD program. Similar to minority households, disabled households are disproportionately low income and extremely low income and consequently in need of rental assistance. Pursuant to HUD CHAS 2000 data, 32.1% of renter households with incomes at or below 30% AMI and 28.8% of households with incomes at or below 50% AMI have reported mobility and/or self-care limitations.¹⁵¹ Moreover, 60.8% of non-elderly renter occupied households reporting mobility or self-care limitations had incomes below 50% of AMI, and 42.6% had incomes below 30% of AMI.

A. Public Housing

Among HUD public housing in Massachusetts, 22% of families were disabled, non-elderly with no children, 16% were disabled, elderly with no children, 5% were disabled, non-elderly with children, and 1% were disabled, elderly with children. Compared to tenant based Section 8 vouchers and project based Section 8 certificates and vouchers, HUD public housing contained the smallest share of disabled households, while project based Section 8 housing contained the largest share. However, the greatest number of disabled households was in tenant based housing.

Within HUD public housing in Massachusetts, 83% of families requesting accessibility features received them, 8% partially received them, and 7% did not. See Appendix E for public housing information on disabled and elderly families by state and metropolitan statistical area.

B. Tenant Based Section 8 Vouchers

Among all HUD tenant based Section 8 housing, 25% of families were disabled, non-elderly with no children, 8% were disabled, elderly with no children, 12% were disabled, non-elderly with children, and 1% were disabled, elderly with children.

¹⁵⁰ Percentages were calculated from HUD CHAS 2000 totals of the following: non-families (non-elderly), non-families (elderly), small families, and large families (5 or more persons).

¹⁵¹ HUD CHAS 2000 SOCDS data.

Among DHCD tenant based Section 8 housing, 24% of families were disabled, non-elderly with no children, 6% were disabled, elderly with no children, 14% were disabled, non-elderly with children, and 1% were disabled, elderly with children. See Appendix E for Section 8 tenant based voucher information on disabled and elderly families by state and metropolitan statistical area.

C. Project Based Section 8 Vouchers and Certificates

Among all HUD project based Section 8 housing, 53% of families were disabled, non-elderly with no children, 9% were disabled, elderly with no children, 4% were disabled, non-elderly with children, and 1% were disabled, elderly with children. Among DHCD project based Section 8 housing, 25% of families were disabled, non-elderly with no children, 4% were disabled, elderly with no children, 10% were disabled, non-elderly with children, and 1% were disabled, elderly with children. See Appendix E for project based Section 8 information on disabled and elderly families by state and metropolitan statistical area.

IV. HUD Deconcentration of Poverty Analysis: HUD Section 8 Certificates and Vouchers

Among DHCD Section 8 certificates and vouchers, 39% of families resided in areas with a poverty rate of 20% or more and 16% resided in areas with a poverty rate of 30% or more.¹⁵² The Holyoke Housing Authority had the highest concentration of poverty within HUD Section 8 Certificate and Voucher programs with 94% of families residing in areas with a poverty rate of 20% or more. The Springfield Housing Authority had 52% of families residing in areas with poverty rates of 30% or more, followed by Holyoke (40%), New Bedford (36%), Worcester (36%), Boston (17%), Lawrence (17%), Lowell (17%), Fitchburg (6%), Leominster (5%), Westfield (4%), Framingham (2%), and Haverhill (0%) housing authorities. Based on this data, communities over-represented by minorities (with the exception of Framingham) had Section 8 families residing in higher poverty concentrated areas than communities with lower minority presence, such as Fitchburg, Leominster, Westfield, and Haverhill. See Appendix E for further deconcentration of poverty data by housing authority in Massachusetts, as well as the Action Steps section of this report for further discussion on poverty deconcentration in housing.

D. Further Data on Subsidized Housing in Massachusetts

1. Occupancy Data

¹⁵² Id. As of August 31, 2006.

Although there is a large supply of subsidized housing (including private developments with state or federal subsidy) that is dispersed throughout the Commonwealth, it is more concentrated in particular communities; only 50 of the 351 communities in Massachusetts have over 10% of their units eligible to be counted on DHCD's Subsidized Housing Inventory.¹⁵³

As indicated by the Pioneer Institute for Public Policy Research in its 2001 report, Massachusetts has among the nation's highest per capita inventories of subsidized housing.¹⁵⁴ The report cites HUD's most recent figures for Massachusetts: in 1998 there were 158,750 units of subsidized housing for a population of 6,144,401. Massachusetts figures are largely influenced by the relatively high level of subsidized housing in Boston: Boston had 75.3% more subsidized units per capita and a 29.1% lower poverty rate tract compared to the average city of similar size in 1998.¹⁵⁵ Compared to the average location in Massachusetts outside Boston, which had 1.170 public housing units per 100 people and 1.422 Section 8 units per 100 people, Boston had a greater number per 100 people of public housing units (3.113) and Section 8 units (3.683).¹⁵⁶ Higher than average subsidized housing rates could also be found in cities like Cambridge, Lowell, Springfield, and Worcester.¹⁵⁷

2. Low Income Tax Credit (LIHTC) Data

To further assist the needs of low income households throughout Massachusetts, DHCD also currently administers approximately 32,000 federal low income housing tax credit units, and approximately 2,077 state low income housing tax credit units.¹⁵⁸

HUD has revealed that nationally, concentrations of subsidized units in central cities and metropolitan areas are prevalent in the LIHTC program. In its 1996 report, HUD concluded that 54% of LIHTC units were located in central cities, 26% were located in

¹⁵³ As of April 10, 2007. See <http://www.mass.gov/dhcd> for Subsidized Housing Inventory data, as well as DHCD's Eligibility Summary for SHI inclusion.

¹⁵⁴ Husock, Howard and David J. Bobb. *Build More or Manage Better? Public Housing in Boston and Massachusetts*. Pioneer Institute for Public Policy Research. White Paper No. 16. July 2001.

¹⁵⁵ Id.

¹⁵⁶ Id. (finding that Massachusetts and Boston in particular had higher rates of vacancy and over-housing (units with more bedrooms than residents) in subsidized housing compared to other similarly populated geographical areas).¹⁵⁶

¹⁵⁷ Id.

¹⁵⁸ DHCD data provided August 2006.

non-central city metro areas, and 19% were located in non-metro areas.¹⁵⁹ In a 2000 report, HUD revealed findings relative to LIHTC properties in five MSAs (Boston, Kansas City, Miami, Milwaukee, and Oakland). The report revealed that 72% (n=39) of said properties were located in central cities; 46% were located in high poverty (30% or higher) neighborhoods; 49% were located in areas that were 80-100% minority; and 40% were located in high-poverty, city, and minority (>40%) neighborhoods.¹⁶⁰ These findings also revealed a significant difference between nonprofit sponsors (n=22) and for-profit sponsors (n=17), where nonprofit sponsors were more likely to be located in neighborhoods high in poverty and minority presence.¹⁶¹

Additionally, Abt Associates, Inc. recently issued a report revealing the low percentage of LIHTC family units outside of highly concentrated minority areas in Massachusetts. It stated that for projects placed in service 1995 to 2003 in Massachusetts, only 15.8% of LIHTC family units were in low poverty census tracts (0-10% poor), and only 12.5% of LIHTC family units in census tracts with minority percentages less than the percentage for the metropolitan area.¹⁶² However, this percentage varied by location: in Lawrence in the Massachusetts portion of the MA—NH PMSA it was 45.9%; in Worcester in the Massachusetts portion of the MA—CT PMSA it was 41.1%; in the Springfield MSA it was 12.3%; in Boston in the Massachusetts portion of the MA—NH PMSA it was 6.7%; and in Lowell in the Massachusetts portion of the MA—NH PMSA was only 3.2%.¹⁶³

It is important to note that the LIHTC statute (Title 42, section 26) requires the LIHTC qualified allocation plan to give “preference in allocating housing credit dollar amounts among the selected projects to: 1) projects serving the lowest income tenants, 2) projects obligated to serve qualified tenants for the longest periods, and 3) projects which are located in qualified census tracts (either in which at least 50% of households less than 60% AMI or which has a poverty rate of at least 25%) and the development

¹⁵⁹ *Development and Analysis of the National Low-Income Housing Tax Credit Database*. Prepared by Abt Associates Inc. for the U.S. Department of Housing and Urban Development Office of Policy Development and Research. July 1996. It was also noted in this report that 65% of LIHTC units were located in low income neighborhoods, 38% were in areas of concentrated poverty, and 40% were in neighborhoods with high minority concentrations compared to minority representation in the MSA or county.

¹⁶⁰ *Assessment of the Economic and Social Characteristics of LIHTC Residents and Neighborhoods*. Prepared by Abt Associates Inc. for the U.S. Department of Housing and Urban Development Office of Policy Development and Research. Final Report, February 28, 2000.

¹⁶¹ *Id.*

¹⁶² *Are States Using the Low Income Housing Tax Credit to Enable Families With Children to Live in Low Poverty and Racially Integrated Neighborhoods?* Prepared by Abt Associates, Inc. for the Poverty and Race Research Action Council and the National Fair Housing Alliance. July 28, 2006 (Source: HUD National LIHC Database for projects placed in service 1995 to 2003, and Census 2000).

¹⁶³ *Id.*

of which contributes to a concerted community revitalization plan.” As such, statutory requirements may conflict with the state’s objectives of mitigating concentrations of poverty and promoting regional equity.

3. Chapter 40B Data

Chapter 40B has produced a significant number of affordable housing units for households below 80% of the median income: approximately 43,000 units (31,000 rental units and 12,000 homeownership units) in approximately 736 developments Massachusetts.¹⁶⁴ According to the Citizens’ Housing and Planning Association, from 2001 to 2006, 82% of new production of affordable housing in municipalities at or below the 10% threshold is attributable to Chapter 40B, and over the past three years, approximately 30% of all housing production was attributable to Chapter 40B.¹⁶⁵ As of June 2007, 53 communities in Massachusetts had at or above 10% of its housing stock counted as subsidized by DHCD.¹⁶⁶ Narrowing DHCD’s subsidized housing inventory figures to the selected locations in the Data Analysis section of this report, the share of subsidized housing units was 19.9% in Boston, 15.8% in Cambridge, 10.4% in Fitchburg, 10.2% in Framingham, 21.3% in Holyoke, 14.5% in Lawrence, 13.3% in Lowell, 16.5% in Springfield, and 13.6% in Worcester.¹⁶⁷

E. Housing Mobility Data

The U.S. Department of Housing and Urban Development began studying the benefits of housing mobility to lower poverty areas through the Moving to Opportunity (MTO) project in Baltimore, Boston, Chicago, Los Angeles, and New York in the fall of 1994. The MTO project was undertaken in response to studies indicating an increase in the concentration of poverty¹⁶⁸ and the persistence of segregation by race and income in metropolitan areas across the United States, as well as the negative effects of concentrated poverty on children even when controlling for family income and

¹⁶⁴ *Fact Sheet on Chapter 40B the State’s Affordable Housing Zoning Law*. Citizens’ Housing and Planning Association. January 2006.

¹⁶⁵ *Id.*

¹⁶⁶ *Analysis of the 2005 Subsidized Housing Inventory*. Citizens’ Housing and Planning Association. January 18, 2005.

¹⁶⁷ Massachusetts Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory. June 1, 2006.

¹⁶⁸ Katz, Lawrence F. et al. *Moving to Opportunity in Boston: Early Results of a Randomized Mobility Experiment*, October 8, 2000. Between 1970 and 1990, the percentage of poor persons in metropolitan areas living in census tracts with a poverty rate of 40 percent or more increased from 12% to 18% between 1970 and 1990 (citing Jargowsky, Paul A., “Take the Money and run: Economic Segregation in U.S. Metropolitan Areas,” *American Sociological Review*, LXI (1996)).

background characteristics.¹⁶⁹ The MTO project was designed to measure the impact of Section 8 voucher residence in non-segregated and non-poverty concentrated areas on outcome measures such as health and safety.¹⁷⁰ Public housing residents were used as a comparison group.

According to the 2000 report, in the Boston MTO project, fewer families elected to use vouchers restricted to low poverty areas and accompanied by housing counseling (48%) than those who elected to use Section 8 Vouchers without such conditions (62%). However, the report concluded that the low poverty area restriction appeared to be the greater cause of the lower participation rate in the latter group than the housing counseling.

The major positive findings of the MTO project in Boston, according to the 2000 report, indicate that households receiving vouchers that moved, in comparison to households in public housing, were less likely to live in higher poverty areas and experienced positive effects such as increased safety, improved health among household heads, and reduced behavioral problems among boys. Voucher holders restricted to low poverty areas that moved were most likely to remain in suburban, low-poverty (poverty rate below 10%) neighborhoods and have fewer specified health and crime related injuries among their children.¹⁷¹

In Massachusetts, minority households have also benefited from the use of Section 8 vouchers in lower minority concentrated areas through the Community Choice Voucher Program (CCVP), a federally funded initiative currently administered by the Metropolitan Boston Housing Partnership (MBHP) to assist minority families in Boston that wish to relocate to more diverse communities.¹⁷²

¹⁶⁹ Id. (citing Cutler, David M. and Edward L. Glaeser, "Are Ghettos Good or Bad?" *Quarterly Journal of Economics*, CXII (1997)); Brooks-Gunn, Jeanne, Greg J. Duncan, Pamela K. Klebanov, and Naoimi Sealand, "Do Neighborhoods influence Child Adolescent Development?" *American Journal of Sociology*, XCIX (1993)).

¹⁷⁰ Id. Since 1994, the project has been operating in Boston, Baltimore, Chicago, Los Angeles, and New York. The project is comprised of families with children, who are eligible based on their residence in public housing or project-based Section 8 in poverty areas, and designated to either a Control group, a Section 8 Comparison group, or an Experimental group. The Control group did not receive tenant based rental assistance vouchers, while the Comparison group did. The Experimental group received rental vouchers restricted to low poverty areas, and in addition, received housing counseling on finding a home in a new neighborhood.

¹⁷¹ Id.

¹⁷² See <http://www.mbhp.org/tenants/ccvp/towns.htm> for more information on the CCVP housing locations.

As a result of the NAACP v. HUD Consent Decree (June 23, 1989), 100 Section 8 “Skinner Vouchers”¹⁷³ were allocated to MBHP and 400 were allocated to the Boston Housing Authority (BHA) for the purpose of assisting low-income minority families with children with locating housing in predominantly white areas. The BHA contracted with Metrolist/Boston Fair Housing Commission to provide housing search and related services to 385 eligible families, through its Housing Choice Counseling Program (HCCP). By the conclusion of the HCCP in 2005, the Commission had assisted 380 families with leasing housing in predominantly White areas, which included 14 Boston neighborhoods and over 40 cities and towns.¹⁷⁴

MBHP data reveals that by the end of 2004, 17% of the 89 families originally receiving Skinner vouchers leased in qualified areas (neighborhoods with less than 41% minority residents), while 61% (n=70) of the 114 families leased under the CCVP program as of March 3, 2002 were leased in qualifying areas.¹⁷⁵ By the end of the third quarter of the 2006 fiscal year, 72 families (including 13 original Skinner voucher participants) were housed in qualifying locations in twenty-eight different neighborhoods.¹⁷⁶

Thus, minority families participating in MBHP’s CCVP program currently have success in moving to diverse neighborhoods, likely due to the extensive support services MBHP provides. MBHP currently assists its clients by conducting housing search or relocation workshops, providing referrals to support services and assisting in security deposits, holding fees and realtor fees. CCVP also conducts outreach to property owners.

However, MBHP has identified several obstacles to achieving further success, including decreased Section 8 payment standards, community support, and transportation. It notes that many families hesitate to move away from their support networks, and attempts to alleviate this problem by providing families with personalized resources on schools, local community centers, and MBTA information. Section 8 payment standards are a formidable obstacle: many families moved to Dorchester and Roxbury in search of more reasonable rents as three and four bedroom apartments were less affordable in the majority of the CCVP communities.

¹⁷³ “Skinner vouchers” resulted from a 1978 lawsuit by NAACP against HUD (discussed in the legal framework section of this report). In 1991, Judge Skinner issued a consent decree creating 500 new rental vouchers for potential use in diverse communities.

¹⁷⁴ Information provided by the City of Boston Office of Civil Rights.

¹⁷⁵ Data provided by the Metropolitan Boston Housing Partnership October 18, 2006.

¹⁷⁶ Id.

F. Massachusetts Housing Discrimination Complaint Data

Recent HUD data compiled for complaints filed in Massachusetts, including cases dually filed and referred to the Massachusetts Commission Against Discrimination, the Boston Fair Housing Commission (BFHC), and the Cambridge Human Rights Commission (CHRC) revealed that race, familial status, and disability were the primary bases for complaints, although patterns varied by year.¹⁷⁷ Complaints may have also been filed under more than one basis. Complaints based on protected classes under Chapter 151B but not under the federal Fair Housing Act are not included in said data. Moreover, complaints filed subject to the jurisdiction of MCAD, BFHC, and CHRC were referred by HUD to said commissions.

In 2005, HUD data on 76 filed complaints revealed: 95.1% were referred to MCAD, 2.4% remained with HUD, 1.2% were referred to BFHC, and 1.2% were referred to CHRC. The complaints were most likely to have been filed on the basis of race (Black) (32.9%) and familial status (children under 18) (32.9%), followed by color (9.8%), physical disability (6.1%), mental disability (4.9%), familial status (pregnant female) (4.9%), Hispanic origin (4.9%), and gender (female) (3.7%).¹⁷⁸

Among these cases, discriminatory rental practices¹⁷⁹ occurred more frequently than other discriminatory housing practices, although the extent of this trend varied by protected class.¹⁸⁰ For example, discriminatory rental practices accounted for 50.0%

¹⁷⁷ Data was provided on August 24, 2006 by the New England HUD Office of Fair Housing for complaints filed thus far between 2004-2006.

¹⁷⁸ Id. Author's calculations ("Black" n=82; "familial status, children under 18" n=27; "color" n=8; "physical disability" n=5; "mental disability" n=4; "familial status, pregnant female" n=3; "Hispanic" n=4; and "female" n=3).

In 2004, HUD data on 84 filed complaints revealed: 83.8% were referred to MCAD cases, 7.1% remained with HUD, 5.1% were referred to CHRC, and 4.0% were referred to BFHC. The complaints were most likely to have been filed on the protected basis of race ("Black") (24.2%), followed by physical disability (17.2%), mental disability (16.2%), familial status (children under 18) (15.2%), color (10.1%), Hispanic origin (9.1%), familial status (pregnant female), (6.1%), gender (female) (1.0%), and retaliation (1.0%).

In 2006 (between January 2006 and August 2006), HUD data on 48 complaints revealed: 86.0% were referred to MCAD, 11.6% were referred to BFHC, and 2.3% were referred to CHRC. The complaints were most likely to have been filed on the basis of familial status (children under 18) (53.5%), followed by physical disability (14.0%), race (Black) (11.6%), mental disability (9.3%), gender (female) (2.3%), color (2.3%), Hispanic origin (2.3%), familial status (pregnant female), and retaliation (2.3%).

¹⁷⁹ Discriminatory rental practices were primarily comprised of refusal to rent and refusal to negotiate rental, and also included false denial or representation of availability and restriction of choices related to rental).

¹⁸⁰ Complaints may have been filed under more than one discriminatory practice.

or race (Black) cases in 2004 and 51.9% of race (Black) cases in 2005.¹⁸¹ With respect to Hispanic origin cases, which were few in number, discriminatory rental practices accounted for 55.6% and 75.0% of said cases in 2004 and 2005 respectively. Complaints filed on behalf of mental disability were even more heavily comprised of discriminatory rental practices (70.6% and 75.0% in 2004 and 2005 respectively), as were complaints filed on behalf of physical disability (70.6% and 100.0% in 2004 and 2005 respectively). All of the complaints filed on behalf of familial status were based on discriminatory rental practices in 2004 and 2005.

Complaints filed with MCAD were most frequently filed on the basis of disability (37.5%) from 2004 to 2006 (January to July), followed by race/color (18.4%), national origin (9.2%), familial status (8.0%), receipt of public assistance (7.0%), sex (4.9%), children (4.6%), lead paint (3.0%), other (1.9%), sexual orientation (1.9%), age (1.2%), and marital status (1.0%).¹⁸² Denials of reasonable accommodation requests (22.4%) and refusals to rent or sublet (23.6%) were among the most frequently occurring allegations filed from 2004 to 2006 (January to July).¹⁸³

The majority of complaints filed with MCAD since 1994 shared jurisdiction with HUD; therefore, a minority of cases were filed on bases not protected under federal fair housing laws (i.e., sexual orientation, marital status, receipt of public assistance).¹⁸⁴ In 2005, 26.6% (n=85) of MCAD complaints did not share jurisdiction with HUD, and in 2004 26.4% of MCAD complaints did not share jurisdiction with HUD.¹⁸⁵ Since 1994, HUD was least likely to share jurisdiction with MCAD cases in 2000 (38.3% were non-HUD cases).¹⁸⁶ The majority of cases filed with MCAD pertained to private housing (77.9%) rather than public housing (22.1%) from 2004 to 2006 (January to July).¹⁸⁷

¹⁸¹ Id. Discriminatory lending/financing practices accounted for 20.8% of race (Black) cases in 2004 and 18.5% of race (Black) cases in 2005; discriminatory sales practices accounted for 12.5% of race (Black) cases in 2004 and 14.8% of race (Black) cases in 2005; and discriminatory redlining practices accounted for 12.5% of race (Black) cases in 2004 and 18.5% of race (Black) cases in 2005.

¹⁸² Id.

¹⁸³ Id. Complaints may have been filed under more than one discriminatory housing practice.

¹⁸⁴ Data was provided by the Massachusetts Commission Against Discrimination on July 28, 2006.

¹⁸⁵ Id.

¹⁸⁶ Id.

¹⁸⁷ Id.

From 2004 to approximately August 2006, MCAD complaints were filed against 838 respondents¹⁸⁸ located in 217 communities, including several communities in other states.¹⁸⁹ The fifteen most frequent respondent locations were Boston (16.7%), Cambridge (4.4%), Brookline (2.5%), Worcester (2.4%), Springfield (2.3%), Fall River (1.7%), Salem (1.7%), Braintree (1.6%), New Bedford (1.6%), Holyoke (1.4%), Quincy (1.4%), Revere (1.4%), Lynn (1.3%), Malden (1.3%), and Somerville (1.2%).¹⁹⁰

This data indicates that a plurality of the respondents were located in communities over-represented by minorities, and that the majority of complaints were filed against respondents dispersed throughout the Commonwealth. It is important to note that many of the fifteen cited locations have significantly higher populations than other communities, thereby increasing the likelihood of alleged discriminatory practices. Moreover, respondent location is not an adequate proxy for the location of the discriminatory act, as many real estate owners, managers, companies, and lending institutions, are not located in the same community as the complaint property.

Complaints filed with the local enforcement agencies, BFHC and CHRC revealed similar patterns, with the majority of cases filed on bases protected under the federal Fair Housing Act, although varying in the representation of protected classes in complaints filed.

A total of forty-three complaints were filed with BFHC from 2004 to 2006,¹⁹¹ and complaints were most likely to have been filed on the basis of familial status (37.2%), followed by disability (25.5%), race/color (20.9%), income status (14.0%), and national origin (2.3%). A plurality of case were filed on the basis of refusal to rent (48.8%), followed by discriminatory terms and conditions (32.6%), and denial of reasonable accommodation requests (18.6%). Complaints filed on the basis of national origin and source of income were entirely represented by refusal to rent, while complaints filed on the basis of race/color and familial status were represented by refusal to rent in approximately one-half of the cases. Denial of reasonable accommodations constituted approximately 63% of cases filed on the basis of disability.

A total of thirty-seven complaints were filed with CHRC from 2004 to August 2006, and they were primarily filed on the basis of disability (32.4%), followed by race and color

¹⁸⁸ This data may include respondents that had more than one complaint filed against them during this time period.

¹⁸⁹ Data was provided by the Massachusetts Commission Against Discrimination on August 1, 2006.

¹⁹⁰ Id.

¹⁹¹ Data was provided by the Boston Fair Housing Commission on September 25, 2006. Complaints may have been filed under more than one basis and more than one discriminatory practice.

(24.3%), national origin (16.2%), familial status (16.2%), and retaliation (8.1%).¹⁹² All the CHRC cases were rental, and the most frequently occurring discriminatory practice was discriminatory terms and conditions of rental (35.1%), followed by denial of reasonable accommodation(s) (32.4%), and refusal to rent (18.9%).¹⁹³ When examining discriminatory housing practice and discriminatory basis together, denials of reasonable accommodations on the basis of disability comprised the majority of complaints (29.7%), followed by discriminatory terms and conditions of rental on the basis of race and color (16.2%), discriminatory terms and conditions of rental on the basis of national origin, and refusal to rent and discriminatory terms and conditions of rental on the basis of familial status (each 8.1%).¹⁹⁴

In conclusion, Massachusetts housing discrimination complaint data provides insight on the types of complaints that have been filed, namely that they are primarily filed: under the bases of race and color, disability, and familial status; for discriminatory rental practices; in private housing; and under the jurisdiction of HUD and a state or local enforcement agency. However, housing discrimination complaint data should not be interpreted as representing the extent of actual housing discrimination in Massachusetts. Many complaints may not be filed due to factors such as perceived futility, fear of retaliation, the subtlety of many discriminatory practices, the inability to detect discriminatory practices without testing, the inability to prove discrimination without witnesses or testing, and insufficient awareness about what constitutes housing discrimination under the law and the advocacy and testing services available.

To illustrate underreporting and the extent of fair housing awareness, a recent study by HUD¹⁹⁵ on national trends indicated that almost two-thirds of survey respondents perceiving discrimination, with plausible bases, that did not take responsive action¹⁹⁶ did not take action because they believed it would not have been worth it or would not have helped. The remainder of said respondents did not take action for reasons such as not knowing where/how to complain, fear of retaliation, too busy, fear of costs, and uncertainty as to whether discrimination occurred.¹⁹⁷

¹⁹² Data was provided by the Cambridge Human Rights Commission on August 17, 2006. Complaints may have been filed under more than one basis and more than one discriminatory practice.

¹⁹³ Id. Complaints may have been filed under more than one basis and more than one discriminatory practice.

¹⁹⁴ Id.

¹⁹⁵ *Do We Know More Now? Trends in Public Knowledge, Support and Use of Fair Housing Law*. U.S. Department of Housing and Urban Development. February 2006 (the survey was telephonic and consisted of a random digit dial in 48 contiguous states and the District of Columbia; a total of 1,747 persons were interviewed).

¹⁹⁶ Id. 80% of persons perceiving discrimination with plausible bases took no action.

¹⁹⁷ Id. A base sample of 1,029 persons was used.

The survey also revealed that although as many as 81% of survey respondents in 2005 correctly responded that restricting home sales to white buyers violated fair housing law and 77% correctly responded that disapproval of rental to persons of a different religion is unlawful, 72% correctly responded that requiring a higher down payment based on ethnicity was unlawful, only 62% correctly responded that advertising “Christian preferred” was unlawful, 60% correctly responded that disapproval of rental to persons with mental illness was unlawful, 58% correctly responded that limiting real estate searches to white-only areas was unlawful, 54% correctly responded that opposing construction of wheelchair ramp was unlawful, and only 44% correctly responded that differential treatment of families with children was unlawful.¹⁹⁸ A survey in Massachusetts of unlawful practices under Massachusetts law would likely reveal even more incorrect responses, as discrimination based on bases such as public assistance, marital status, and sexual orientation may not be as obviously unlawful as discrimination based on race and religion to the general public.

G. Information on Maps

For maps (i.e., on race, ethnicity, and income) on U.S. Census data see http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=DEC&_submenuld=datasets_1&_lang=en.

For maps depicting residential segregation patterns in Metro Boston, see http://www.civilrightsproject.harvard.edu/research/metro/residential_choice.php#fullreport.

H. Conclusion

As this section of the report has indicated, Census 2000 data, subsidized housing data, discrimination complaint data, contemporary research, and housing discrimination statistics reveal numerous indicators of impediments to fair housing in Massachusetts. In particular, race and ethnicity, and the relationship between race and ethnicity and the geographical location of housing, are strong predictors of impeded fair housing access in Massachusetts. The next section of this report will discuss policy objectives for mitigating these impediments.

¹⁹⁸ Id.